

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Meeting Materials July 26, 2017

Open Session

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the following 704 pages are the Open Session meeting materials presented at a meeting duly called, noticed and held on the 26th day of July, 2017, and reconvened on the 27th day of July, 2017.

A handwritten signature in blue ink that reads "Lisa Summers". The signature is written in a cursive style and is positioned above a horizontal line.

Lisa Summers, Tribal Secretary
Oneida Business Committee



Oneida Business Committee

Executive Session
8:30 a.m. Tuesday, July 25, 2017
Executive Conference Room, 2nd floor, Norbert Hill Center

Regular Meeting
8:30 a.m. Wednesday, July 26, 2017
BC Conference Room, 2nd floor, Norbert Hill Center

Agenda

To get a copy of the agenda, go to: oneida-nsn.gov/government/business-committee/agendas-packets/

I. CALL TO ORDER AND ROLL CALL

II. OPENING *(Please Note: Scheduled times are approximate and subject to change)*

A. Special Recognition – Oneida athletes – North American Indigenous Games (NAIG) Toronto, Ontario – July 17-21, 2017 *(This item is scheduled to begin at 1:30 p.m.)*

Sponsor: Fawn Billie, Councilwoman

B. Special Recognition for Years of Service – Seventeen (17) Oneida Nation employees

Sponsor: Geraldine Danforth, Area Manager/Human Resources Dept.

III. ADOPT THE AGENDA

IV. OATHS OF OFFICE

A. Oneida Police Commission – Kory Wesaw

B. Oneida Personnel Commission – Pearl Webster, Carol Smith, and Gerald DeCoteau

V. MINUTES

A. Approve July 12, 2017, regular meeting minutes

Sponsor: Lisa Summers, Tribal Secretary

VI. RESOLUTIONS

A. Adopt resolution entitled Native American Business Development Institute (NABDI) Feasibility Study

Sponsor: Joanie Buckley, Division Director/Internal Services

- B. Adopt resolution entitled Well Abandonment Law Amendments**
Sponsor: Brandon Stevens, Councilman/Legislative Operating Committee Chair
- C. Adopt resolution entitled Tribal Environmental Response Law Amendments**
Sponsor: Brandon Stevens, Councilman/Legislative Operating Committee Chair
- D. Adopt resolution entitled On-Site Waste Disposal Law Amendments**
Sponsor: Brandon Stevens, Councilman/Legislative Operating Committee Chair
- E. Adopt resolution entitled Public Use of Tribal Land Law Amendments**
Sponsor: Brandon Stevens, Councilman/Legislative Operating Committee Chair
- F. Adopt resolution entitled All-Terrain Vehicle Law Amendments**
Sponsor: Brandon Stevens, Councilman/Legislative Operating Committee Chair
- G. Adopt resolution entitled Hunting, Fishing and Trapping Law Amendments**
Sponsor: Brandon Stevens, Councilman/Legislative Operating Committee Chair
- H. Adopt resolution entitled Water Resources Ordinance Amendments**
Sponsor: Brandon Stevens, Councilman/Legislative Operating Committee Chair
- I. Adopt resolution entitled Oneida Business Committee Meetings Law**
Sponsor: Brandon Stevens, Councilman/Legislative Operating Committee Chair
- J. Adopt resolution entitled Landlord-Tenant Emergency Amendments**
Sponsor: Brandon Stevens, Councilman/Legislative Operating Committee Chair
- K. Adopt resolution entitled Adoption of the Children's Code and the Nation's Indian Child Welfare Act Policy**
Sponsor: Brandon Stevens, Councilman/Legislative Operating Committee Chair
- L. Adopt resolution entitled Cemetery Law Amendments**
Sponsor: Brandon Stevens, Councilman/Legislative Operating Committee Chair

VII. STANDING COMMITTEES

- A. Legislative Operating Committee**
Chair: Brandon Stevens, Councilman
- 1. Accept June 21, 2017, Legislative Operating Committee meeting minutes**
- B. Finance Committee**
Chair: Trish King, Tribal Treasurer
- 1. Approve July 17, 2017, Finance Committee meeting minutes**
 - 2. Approve Finance Committee E-Poll results regarding Prevea Clinics, Inc. Psychiatric Services agreement - file # 2017-0808**
 - 3. Approve Finance Committee E-Poll results regarding two Capital Expenditure transfer of funds for \$300,000 from Elder Services to CIP # 05-013 – Elder Services/Apartment Improvements; and \$21,000 from 3 Sisters Asphalt Replacement to CIP # 14-013 – Early Head Start Facility**

C. Quality of Life Committee

Chair: Fawn Billie, Councilwoman

1. **Accept May 11, 2017, Quality of Life meeting minutes**

VIII. APPOINTMENTS**A. Approve recommendation to appoint Jeanette Archiquette-Ninham to Pardon and Forgiveness Screening Committee; and re-post the other three (3) vacancies**

Sponsor: Cristina Danforth, Tribal Chairwoman

B. Approve recommendation to appoint Elaine Skenandore-Cornelius to Bay Bancorporation Board of Directors

Liaison Alternate: David Jordan, Councilman

IX. TABLED BUSINESS**A. Approve recommendation to appoint Robert Barton to Oneida Airport Hotel Corp. Board of Directors**

Sponsor: Cristina Danforth, Tribal Chairwoman

EXCERPT FROM JULY 12, 2017: (1) Motion by Fawn Billie to approve the recommendation to appoint Robert Barton to the Oneida Airport Hotel Corporation Board of Directors, seconded by David Jordan. Motion not voted on; item tabled. (2) Motion by Lisa Summers to table this item, seconded by Tehassi Hill.

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

X. UNFINISHED BUSINESS**A. Approve four (4) actions regarding Oneida Nation Solar LL.C. Operating agreement – file # 2017-0655**

Requestor: Michael Troge, Environmental Project Manager/Eco-Services Dept.

Sponsor: Patrick Pelky, Division Director/Environmental Health & Safety

EXCERPT FROM JUNE 28, 2017: (1) Motion by Lisa Summers to accept the Oneida Nation Solar LL.C. Operating agreement – file # 2017-0655, as information only at this point, noting the requestors will come back and either request a special Business Committee meeting or add this item to an upcoming regular Business Committee for completion, seconded by Jennifer Webster. Motion carried unanimously. (2) Motion by Lisa Summers to request the Finance Department complete the remainder of their review by Friday, July 7, 2017, so we can proceed, seconded by David Jordan. Motion carried unanimously.

XI. NEW BUSINESS**A. Approve revised OBC SOP entitled Hiring and Negotiating Oneida Business Committee (OBC) Political Appointments**

Sponsor: Tehassi Hill, Councilman

B. Schedule special Business Committee meeting for purpose of administering oaths of office for remaining elected officials

Sponsor: Lisa Summers, Tribal Secretary

XII. OPERATIONAL REPORTS (*Please Note: Scheduled times are approximate and subject to change*)

A. Accept Comprehensive Health Division FY '17 3rd quarter report

(1:40 p.m.-2:00 p.m.)

Sponsors: Debra Danforth, Division Director/Comprehensive Health Operations; Dr. Ravinder Vir, Medical Director/Medical Operations

B. Accept Community & Economic Development Division FY '17 3rd quarter report

(2:00 p.m.-2:20 p.m.)

Sponsor: Troy Parr, Division Director/Community & Economic Development – Development Branch

C. Accept Public Works Division FY '17 3rd quarter report

(2:20 p.m.-2:40 p.m.)

Sponsors: Jacque Boyle, Interim Assistant Division Director/Public Works – Development Branch

D. Accept Governmental Services Division FY '17 3rd quarter report

(2:40 p.m.-3:00 p.m.)

Sponsor: George Skenandore, Division Director/Governmental Services

XIII. GENERAL TRIBAL COUNCIL (*To obtain a copy of Members Only materials, visit the BC Support Office, 2nd floor, Norbert Hill Center and present Tribal I.D. card or go to <https://goo.gl/uLp2jE>*)

A. Approve four (4) actions regarding Petitioner Edward Delgado – Trust Land Distribution

Sponsor: Lisa Summers, Tribal Secretary

EXCERPT FROM JULY 12, 2017: No formal action taken on this item.

EXCERPT FROM JUNE 28, 2017: Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

EXCERPT FROM JUNE 14, 2017: Meeting cancelled.

B. Approve four (4) actions regarding Petitioner Linda Dallas – 2017 Tri-Annual General Election

Sponsor: Lisa Summers, Tribal Secretary

C. Determine appropriate date and reschedule FY '18 GTC budget meeting

Sponsor: Trish King, Tribal Treasurer

D. Approve two (2) actions regarding special GTC meeting

Sponsor: Lisa Summers, Tribal Secretary

E. Accept legal opinion of Referendum Question regarding development of law which provides for sanctions and due process for elected officials

Sponsor: Jo Anne House, Chief Counsel

F. Enter E-Poll results into the record in accordance with OBC SOP entitled Conducting Electronic Voting:

Sponsor: Lisa Summers, Tribal Secretary

- a. Approved memorandum to cancel the June 20, 2017, special GTC meeting; and direct the Tribal Secretary to combine agenda items to a later date with the Employment law and Re-organization proposal**

Requestor: Brandon Stevens, Councilman

EXCERPT FROM JULY 12, 2017: Motion by Lisa Summers to enter the E-Poll results into the record for the approved memorandum to cancel the June 20, 2017, special GTC meeting; and to direct the Tribal Secretary to combine agenda items to a later date with the Employment law and Re-organization proposal, seconded by Jennifer Webster. Motion not formally voted on.¹

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

XIV. EXECUTIVE SESSION (*Please Note: Scheduled times are approximate and subject to change*)

A. REPORTS

- 1. Determine appropriate actions regarding Oneida Seven Generations Corporation FY '17 3rd quarter report**

Agent: Pete King III

Liaison: Tina Danforth, Tribal Chairwoman

- 2. Accept Bay Bancorporation, Inc. FY '17 3rd quarter report**

President: Jeff Bowman (*8:30 a.m.-9:00 a.m.*)

Liaison: Tina Danforth, Tribal Chairwoman

- 3. Accept Oneida ESC Group, LLC. FY '17 3rd quarter report**

Chair: Jackie Zalim (*9:30 a.m.-10:00 a.m.*)

Liaison: Tehassi Hill, Councilman

(Break scheduled from 10:00 a.m.-10:15 a.m.)

- 4. Accept Oneida Airport Hotel Corporation FY '17 3rd quarter report**

Agent: Janice Hirth-Skenandore (*10:15 a.m.-10:45 a.m.*)

Liaison: Trish King, Tribal Treasurer

- 5. Accept Oneida Golf Enterprise FY '17 3rd quarter report**

Agent: Janice Hirth-Skenandore (*10:45 a.m.-11:15 a.m.*)

Liaison: Trish King, Tribal Treasurer

- 6. Accept Gaming General Manager report – Louise Cornelius, Gaming General Manager**
(This item is scheduled to begin at 1:30 p.m.)

- 7. Accept Chief Counsel report – Jo Anne House, Chief Counsel**

- 8. Accept Intergovernmental Affairs & Communications report – Nathan King, Director**

¹ Upon review of the audio, it was concluded that the motion for this item was not formally voted on.

B. STANDING ITEMS

1. **Land Claims Strategy** (*No Requested Action*)
2. **Oneida Golf Enterprise - Ladies Professional Golf Association**
Sponsor: Trish King, Tribal Treasurer (*11:15 a.m.-11:30 a.m.*)

C. AUDIT COMMITTEE

Chair: Tehassi Hill, Councilman (*This item is scheduled to begin at 11:30 a.m.*)

1. **Accept Audit Committee FY '17 3rd quarter report**

D. UNFINISHED BUSINESS

1. **Accept report regarding contract # 2017-0088 and determine next steps**
Sponsors: Lisa Summers, Tribal Secretary; Jennifer Webster, Councilwoman

EXCERPT FROM APRIL 26, 2017: Motion by Fawn Billie to defer the report regarding contract # 2017-0088 for sixty (60) days, seconded by Brandon Stevens. Motion carried unanimously.

EXCERPT FROM FEBRUARY 8, 2017: Motion by Lisa Summers to direct Liaisons Councilwoman Jennifer Webster and Secretary Lisa Summers to work with the Law Office on a contract item that was brought forward; and to bring back a report to the Business Committee within sixty (60) days, seconded by Trish King. Motion carried unanimously.

2. **Review final recommendation; and determine next steps regarding complaints # 2017-DR08-01, # 2017-DR08-02, and # 2017-DR08-03**
Sponsors: Councilmembers Brandon Stevens, David Jordan, Jennifer Webster

EXCERPT FROM JULY 12, 2017: Motion by Lisa Summers to defer this item to the July 26, 2017, regular Business Committee meeting for the team to do the additional follow-up that was identified, seconded by Jennifer Webster. Motion carried with one abstention.

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer this item to the July 12, 2017, regular Business Committee meeting, seconded by Jennifer Webster. Motion carried unanimously.

3. **Discussion regarding complaint # 2017-CC-05** (*9:00 a.m.-9:30 a.m.*)
Sponsor: David Jordan, Councilman

EXCERPT FROM JULY 12, 2017: Motion by Lisa Summers to defer this item to the July 25, 2017, Oneida Business Committee executive session agenda for a 9:00 a.m. start time, seconded by David Jordan. Motion carried unanimously.

4. **Defer report regarding complaint # 2017-DR11-01 to August 9, 2017, regular Business Committee meeting**

Sponsor: Melinda J. Danforth, Tribal Vice-Chairwoman

EXCERPT FROM JULY 12, 2017: Motion by Jennifer Webster to defer this item to the Oneida Business Committee Officers for follow up with the Comprehensive Health Operations Division Director; and for a report to be brought back to the July 26, 2017, regular Business Committee meeting, seconded by Fawn Billie. Motion carried unanimously.

E. NEW BUSINESS

- 1. Approve limited waiver of sovereign immunity – Laredo Ender User License agreement – file # 2017-0125**
Sponsor: Patrick Pelky, Division Director/Environmental Health & Safety
- 2. Approve limited waiver of sovereign immunity – Baker Tilly Virchow Krause LLP.- Engagement Letter – file # 207-0483**
Sponsor: Larry Barton, Chief Financial Officer
- 3. Approve procedural exception to allow Dept. of Public Works to carryover funds from FY '17 operational equipment into FY '18**
Sponsor: Trish King, Tribal Treasurer
- 4. Create position expectations for Direct Report – 21**
Sponsor: Tehassi Hill, Councilman
- 5. Accept sign-in sheets from June 20, 2017, as information**
Sponsor: Cristina Danforth, Tribal Chairwoman
- 6. Accept sign-in sheets from June 28, 2017, as information**
Sponsor: Cristina Danforth, Tribal Chairwoman

XV. ADJOURN

Posted on the Oneida Nation's official website, www.oneida-nsn.gov, at 2:15 p.m., Friday, July 21, 2017, pursuant to the Open Records and Open Meetings Law, section 7.17-1.

The meeting packet of the open session materials for this meeting is available by going to the Oneida Nation's official website at: <https://oneida-nsn.gov/government/business-committee/agendas-packets/>

For information about this meeting, please call the Business Committee Support Office at (920) 869-4364 or (800) 236-2214.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Request for the BC to recognize and congratulate the Oneida athletes who participated in the North American Indigenous Games (NAIG) in Toronto, Ontario from July 17-21, 2017.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Cathy Bachhuber, Executive Assistant
Your Name, Title / Dept. or Tribal Member

Additional Requestor: Susan House, Parks and Recreation
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

[Empty text box]

Agenda Header: Annoucement/Recognition

Accept as Information only

Action - please describe:

Presentation of Years of Service Certificates to approximately seventeen (17) employees by their immediate supervisor along with the Business Committee.

3. Supporting Materials

Report Resolution Contract

Other:

1. List of employees to be recognized 3. [Empty text box]
2. [Empty text box] 4. [Empty text box]

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Geraldine R. Danforth, HRD Area Manager *Geraldine R. Danforth* 7/17/17

Primary Requestor:

Maureen Metoxen, Exec Assist
Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

HRD coordinates efforts on a quarterly basis, with all supervisors and the Business Committee to recognize employees who have reached the 25+ years milestone. With the assistance from each supervisor, HRD will create the certificate to be presented to the Years of Service recipient.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

3RD QUARTER 2017**7-26-17 Mtg**

Name	Supervisor Name	ADOH	Years	Response
STEVENS,SHELLY L	CORNELIUS,CHAD B	Apr 8, 1992	25	
CORNETTE,DOROTHY F	CHAMBERS,ROBERT J	Apr 19, 1992	25	
SUMMERS,WENDY S	BAIN,ARLOUINE	May 4, 1992	25	Unable to Attend
POWLESS,DALE F	BOYLE,JACQUE	May 18, 1992	25	
SKENANDORE,LORNA G	CORNELIUS,LOUISE C	May 29, 1992	25	
SOMERS,OWEN R	VANBOXTTEL,RICHARD G	Jun 10, 1992	25	Unable to Attend
LALUZERNE,KIM A	CORNELIUS,FRANKLIN L	Jun 11, 1992	25	Accepted/Rec'd Cert
PETITJEAN,JAMES J	PARR,TROY D	Jun 11, 1992	25	
SCHUMAN,JR,FLOYD F	NINHAM,TIMOTHY D	Jun 11, 1992	25	
SKENANDORE,KELLY L	CARLSON,JEFFREY R	Jun 11, 1992	25	Accepted/Rec'd Cert
MOORE,TINA M	LALUZERNE,KIM A	Jun 15, 1992	25	
CHARLES,TRACY A	LALUZERNE,KIM A	Jun 23, 1992	25	
KELLY,SUSAN M	LALUZERNE,KIM A	Jun 23, 1992	25	
GREEN,JILL E	BRAATEN,BLAIR A	Jun 24, 1992	25	Unable to Attend/Rec'd Cert
VANBOXTTEL,RICHARD G	STRONG,LOIS	Jun 29, 1992	25	
SMITH,PHILIP J	DANFORTH,ALFRED	Apr 8, 1987	30	Unable to Attend
THOMAS,GENE L	SKENANDORE,KENNETH L	May 1, 1987	30	
REED-VANDERZANDEN,VICTORIA L	LALUZERNE,KIM A	May 13, 1987	30	
SKENANDORE,SAMANTHA	RASMUSSEN,FAWNE M	Apr 3, 1982	35	
KING DESSART,PAULA M	WEBSTER,STEPHEN R	May 27, 1982	35	
PREVOST,CARL M	GARVEY,MARLENE H	Jun 23, 1982	35	
STEVENS,WILLIAM B	DANFORTH,PAUL F	May 23, 1977	40	

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Administer Oath of Office to Kory Wesaw Name to the Oneida Police Commission.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Lee Cornelius, Records Clerk
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

The posting was in the 08/18/16 issue of the Kalihwisaks for 1 of vacancy on the Oneida Police Commission for a 5 year term with the deadline of 09/16/16. There were 3 applicants for the 1 vacancy on the Oneida Police Commission. The appointment was made on the 7/12/16 BC Agenda.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Administer Oath of Office to Pearl Webster, Carol Smith and Gerald DeCoteau to the Oneida Personnel Commission.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Kathleen M. Metoxen, Executive Tribal Clerk
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

BACKGROUND

During the reconvened BC meeting on July 3, 2017, the following appointments were made for two separate postings to the Oneida Personnel Commission:

Posting A:

There were 4 vacancies on the Oneida Personnel Commission for a 5 year term.

There were 6 applicants for the 4 vacancies.

The BC approved the Chair's recommendation to appoint Patricia Powless, Jason Martinez, and Pearl Webster.

They approved Carol Smith instead of the Chair's recommendation for John Orié.

Posting B:

There were 3 vacancies on the Oneida Personnel Commission for a 5 year term.

There were 3 applicants for the 3 vacancies.

The BC approved the Chair's recommendation to appoint Stacey Nieto, Gerald DeCoteau, and Yvonne Jourdan.

Pearl Webster, Carol Smith and Gerald DeCoteau couldn't make the July 12, 2017, BC meeting.

1) Save a copy of this form for your records.

2) Print this form as a *.pdf OR print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Approve July 12, 2017, regular meeting minutes

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="July 12, 2017, regular meeting minutes"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Submitted by: Heather Heuer, Info. Mgmt. Spec./BC Support Office
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

DRAFT**Oneida Business Committee****Executive Session****8:30 a.m. Tuesday, July 11, 2017****Executive Conference Room, 2nd floor, Norbert Hill Center****Regular Meeting****8:30 a.m. Wednesday, July 12, 2017****BC Conference Room, 2nd floor, Norbert Hill Center****Minutes - DRAFT****EXECUTIVE SESSION****Present:** Chairwoman Tina Danforth, Secretary Lisa Summers, Council members: Fawn Billie, Tehassi Hill, David Jordan, Brandon Stevens, Jennifer Webster;**Not Present:** Vice-Chairwoman Melinda J. Danforth, Treasurer Trish King;**Arrived at:** ;**Others present:** Jo Anne House, Larry Barton;**REGULAR MEETING****Present:** Chairwoman Tina Danforth, Secretary Lisa Summers, Council members: Fawn Billie, David Jordan, Jennifer Webster;**Not Present:** Vice-Chairwoman Melinda J. Danforth, Treasurer Trish King, Councilman Brandon Stevens;**Arrived at:** Councilman Tehassi Hill at 8:35 a.m.;**Others present:** Jo Anne House, Heather Heuer, Brad Graham, Bill Graham, Jen Falck, Leyne Orosco, Debbie Melchert, Lee Cornelius, Chris Johnson, Lisa Liggins, Jessica Wallenfang, Nancy Barton, Cathy Metoxen, Karen Smith, Paul Witek, Ed Delgado, Pat Pelky, Jacque Boyle, Troy Parr, Carol Silva, Connie Doxtater, Sandra Reveles, Larry Barton, Bonnie Pigman, Dakota Oskey, Sheila Huntington, Gina Buenrostro, Rob Collins, Susan White, Tsyoshaht Delgado, George Skenandore, Stacey Nieto, Yvonne Jourdan, Patricia Powless, Jason Martinez, Danielle Martinez, Lisa Huff;**I. CALL TO ORDER AND ROLL CALL** by Chairwoman Tina Danforth at 8:32 a.m.

For the record: Vice-Chairwoman Melinda J. Danforth, Treasurer Trish King, and Councilman Brandon Stevens are out of the office on vacation time.

II. OPENING by Chairwoman Tina Danforth**III. ADOPT THE AGENDA (00:02:03)***Councilman Tehassi Hill arrives at 8:35 a.m.*

Motion by Lisa Summers to adopt the agenda with the following changes: [Delete General Tribal Council item XII.C.01. Accept legislative analysis regarding Petitioner Edward Delgado: Trust Land Distribution; and to move XII.E. Approve the August 14, 2017, to the top of the agenda], seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster

DRAFT

Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

IV. OATHS OF OFFICE (00:03:42) administered by Secretary Lisa Summers

- A. Oneida Personnel Commission** – Patricia Powless, Jason Martinez, Pearl Webster (*Not Present*), Carol Smith (*Not Present*), Stacey Nieto, Gerald DeCoteau (*Not Present*), and Yvonne Jourdan

V. MINUTES (00:06:26)

- A. Approve June 28, 2017, regular meeting minutes with reconvened session on July 3, 2017**

Sponsor: Lisa Summers, Tribal Secretary

Motion by David Jordan to approve the June 28, 2017, regular meeting minutes with reconvened session on July 3, 2017, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

VI. STANDING COMMITTEES

- A. Legislative Operating Committee**

Chair: Brandon Stevens, Councilman

- 1. Determine next steps regarding memorandum entitled Oneida Health Board – GTC Directive (00:09:13)**

Sponsor: Brandon Stevens, Councilman; Legislative Operating Committee Chair

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

Motion by David Jordan to accept as information the memorandum entitled Oneida Health Board – GTC Directive, seconded by Lisa Summers. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

Amendment to the main motion by Lisa Summers to direct the Tribal Secretary's Office, which is also responsible for managing Records Management, to develop a resolution to bring back to the Business Committee to adopt to dissolve the Heath Board, it would also contain the appropriate directions, as well as contain the history of why this action is being taken for the record, seconded by Fawn Billie. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

- B. Finance Committee**

Chair: Trish King, Tribal Treasurer

- 1. Approve June 29, 2017, Finance Committee meeting minutes (00:13:53)**

Motion by Jennifer Webster to approve the June 29, 2017, Finance Committee meeting minutes, seconded by Fawn Billie. Motion carried with one abstention:

Ayes: Fawn Billie, Tehassi Hill, Lisa Summers, Jennifer Webster

DRAFT

Abstained: David Jordan
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

2. Enter E-Poll results into the record in accordance with OBC SOP entitled Conducting Electronic Voting:

Sponsor: Lisa Summers, Tribal Secretary

a. Approved June 5, 2017, Finance Committee meeting minutes (00:14:41)

Requestor: Larry Barton, Chief Financial Officer

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

Motion by Lisa Summers to enter the E-Poll results into the record for the approved June 5, 2017, Finance Committee meeting minutes, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

VII. APPOINTMENTS

A. Approve recommendation to appoint Robert Barton to the Oneida Airport Hotel Corp. Board of Directors (00:15:33)

Sponsor: Tina Danforth, Tribal Chairwoman

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

Motion by Fawn Billie to approve the recommendation to appoint Robert Barton to the Oneida Airport Hotel Corporation Board of Directors, seconded by David Jordan. Motion not voted on; item tabled.

Councilman David Jordan departs at 8:50 a.m.

Councilman David Jordan returns at 8:51 a.m.

Motion by Lisa Summers to table this item, seconded by Tehassi Hill.

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

B. Reconsider, review, and hear testimony from Kory Wesaw regarding appointment to Oneida Police Commission (00:19:07)

Sponsor: Tina Danforth, Tribal Chairwoman

Motion by David Jordan to approve the recommendation and appoint Kory Wesaw to the Oneida Police Commission, seconded by Jennifer Webster. Motion carried with one opposed and one abstention:

Ayes: Tehassi Hill, David Jordan, Jennifer Webster
 Opposed: Lisa Summers
 Abstained: Fawn Billie
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens
 For the record: Secretary Lisa Summers stated I'm going to oppose just because the agenda says that he was going to be here today so that we can ask him our questions. My understanding is that he was separated from employment there not only once but twice and I think that was going to be my opportunity to ask him because the agenda said that he would be

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here today so that we could ask our clarifying questions about his employment history there. As liaison to the commission, I understand the concern. If you have an employee that's potentially been terminated from employment from that area twice and now they are being asked to act as a supervisor to the Chief of Police. I think that the Police Commission's concern about a potential conflict of interest is valid and I think this would have been our opportunity because it says that he was supposed to be here today and in absence of him being able to provide testimony or to provide additional clarification around the situation, it would be difficult for I think us to make a fair decision about that.

VIII. STANDING ITEMS**A. Accept quarterly report regarding Work Plan for Cemetery Improvements Project # 14-002**

Sponsor: James Petitjean, Interim Assistant Division Director/Development (00:27:00)

Secretary Lisa Summers departs at 9:00 a.m.

Secretary Lisa Summers returns at 9:08 a.m.

Motion by Lisa Summers to accept the quarterly report regarding Work Plan for Cemetery Improvements Project # 14-002, seconded by Jennifer Webster. Motion carried with one abstention:

Ayes: Fawn Billie, Tehassi Hill, Lisa Summers, Jennifer Webster
 Abstained: David Jordan
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

Amendment to the main motion by Jennifer Webster for a final close-out report, including financials, regarding the Cemetery Improvements Project # 14-002 be submitted to the Oneida Business Committee in sixty (60) days, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

IX. UNFINISHED BUSINESS**A. Accept presentation of Development Division re-organizational structure as information**

Sponsors: Jacque Boyle, Assistant Division Director/Development-Operations; Troy Parr, Assistant Division Director/Development-Development (1:00:10)

Motion by Jennifer Webster to accept the presentation of the Development Division re-organizational structure, as information, seconded by Fawn Billie. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

Councilman David Jordan departs at 10:07 a.m.

Councilman David Jordan returns at 10:28 a.m.

DRAFT**B. Approve Amended and Restated Per Capita Trust agreement – file # 2017-0614 (1:34:44)**

Requestor: Susan White, Director/Trust Enrollment
 Sponsor: Brandon Stevens, Councilman

Motion by Tehassi Hill to approve the Amended and Restated Per Capita Trust agreement – file # 2017-0614, dated May 23, 2017, seconded by Lisa Summers. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

C. Post vacancy to Oneida Personnel Commission with term end date of 2/28/21 (2:02:30)

Requestor: Kathleen Metoxen, Records Technician II/BC Support Office
 Sponsor: Lisa Summers, Tribal Secretary

Motion by David Jordan to post the vacancy to Oneida Personnel Commission with term end date of 2/28/21, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

Councilman Tehassi Hill departs at 10:39 a.m.

Councilman Tehassi Hill returns at 10:44 a.m.

D. Approve OBC SOP entitled Stipends for OBC - Elect during Transition (2:03:20)

Sponsor: Lisa Summers, Tribal Secretary

Motion by Lisa Summers to approve the OBC SOP entitled Stipends for OBC - Elect during Transition; and to include a sentence clarifying that if you are a current employee you are not eligible for the stipend, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

E. Accept memorandum regarding OBC Members and Political Appointments Ending Elected Terms (2:22:38)

Sponsor: Geraldine Danforth, Area Manager/Human Resources Dept.

Motion by Lisa Summers to accept the memorandum regarding OBC Members and Political Appointments Ending Elected Terms; and to defer this item to the Legislative Reference Office and Human Resources Dept. for the follow-up to be completed for the next term, seconded by Tehassi Hill.

Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

DRAFT**F. Approve authorization to proceed with construction contract award for CIP # 14-013 – Early Head Start Facility with understanding additional funds are included in FY18 budget**

Requestor: Paul Witek, Senior Tribal Architect (2:46:22)

Sponsor: Troy Parr, Assistant Division Director/Development-Development

Motion by Lisa Summers to adopt resolution # 07-12-17-A Amending Resolution # BC-09-28-16-B to Correctly Title the Fund "Economic Development, Diversification and Community Development" and to Correct the Purpose of the Fund to Include Community Development, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

Motion by Lisa Summers to adopt resolution # 07-12-17-B Authorizing Use of \$193,401.00 from the Economic Development, Diversification and Community Development Fund for the Purposes of CIP # 14-013, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

Motion by Jennifer Webster to allocate \$151,599 from the Community Economic Development fund to the CIP # 14-013 Early Head Start Facility, seconded by Lisa Summers. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

G. Enter E-Poll results into the record in accordance with OBC SOP entitled Conducting Electronic Voting:

Sponsor: Lisa Summers, Tribal Secretary

1. Approved Memorandum of Understanding regarding Back Forty Mine – reference # 2017-0592 (3:00:50)

Requestor: Nathan King, Director/Intergovernmental Affairs & Communications

Motion by Tehassi Hill to enter the E-Poll results into the record for the approved Memorandum of Understanding regarding Back Forty Mine – reference # 2017-0592, seconded by Fawn Billie. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

X. NEW BUSINESS**A. Enter E-Poll results into the record in accordance with OBC SOP entitled Conducting Electronic Voting:**

Sponsor: Lisa Summers, Tribal Secretary

1. Approved request to add the Governmental Services Division semi-annual report into the 2016 semi-annual reports book; and update memo in book to reflect change

Requestor: Lisa Summers, Tribal Secretary (3:01:27)

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Motion by Lisa Summers to enter the E-Poll results into the record for the approved request to add the Governmental Services Division semi-annual report into the 2016 semi-annual reports book; and update memo in book to reflect change, seconded by David Jordan. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

XI. TRAVEL**A. TRAVEL REPORTS****1. Accept travel report – Councilman David Jordan – WI Republican Night – Washington D.C. – April 25-27, 2017 (3:02:18)**

Motion by Lisa Summers to accept the travel report – Councilman David Jordan – WI Republican Night – Washington D.C. – April 25-27, 2017, seconded by Tehassi Hill. Motion carried with one abstention:

Ayes: Fawn Billie, Tehassi Hill, Lisa Summers, Jennifer Webster
 Abstained: David Jordan
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

2. Accept travel report – Councilman Tehassi Hill – American Indian/Alaska Native Public Witness Hearing – Washington D.C. – May 15-17, 2017 (3:03:18)

Motion by Lisa Summers to accept the travel report – Councilman Tehassi Hill – American Indian/Alaska Native Public Witness Hearing – Washington D.C. – May 15-17, 2017, seconded by Fawn Billie. Motion carried with one abstention:

Ayes: Fawn Billie, David Jordan, Lisa Summers, Jennifer Webster
 Abstained: Tehassi Hill
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

B. TRAVEL REQUESTS**1. Accept travel request regarding Secretary Lisa Summers & Councilwoman Fawn Billie attending 2017 North American Indigenous Games in Toronto, Ontario, July 16-23, 2017, as information (3:05:53)**

Motion by Jennifer Webster to accept the travel request regarding Secretary Lisa Summers & Councilwoman Fawn Billie attending 2017 North American Indigenous Games in Toronto, Ontario, July 16-23, 2017, as information, noting there is no request for per diem, hotel, or mileage, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

DRAFT**2. Enter E-Poll results into the record in accordance with OBC SOP entitled Conducting Electronic Voting:**

Sponsor: Lisa Summers, Tribal Secretary

a. Approved travel request – Treasurer Trish King and up two (2) additional OBC members – Midwest Alliance of Sovereign Tribes (MAST) summer meeting – Hinkley, MN – July 13-14, 2017 (3:10:55)

Sponsor: Lisa Summers, Tribal Secretary

Motion by Lisa Summers to enter the E-Poll results into the record for the approved travel request – Treasurer Trish King and up two (2) additional OBC members – Midwest Alliance of Sovereign Tribes (MAST) summer meeting – Hinkley, MN – July 13-14, 2017, noting that there will be no Oneida Business Committee members attending this event, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

b. Approved travel request – Vice-Chairwoman Melinda J. Danforth – Partners in Action conference – Prior Lake, MN – July 18 and/or 20, 2017 (3:12:16)

Requestor: Melinda J. Danforth, Tribal Vice-Chairwoman

Motion by Lisa Summers to enter the E-Poll results into the record for the travel request – Vice-Chairwoman Melinda J. Danforth – Partners in Action conference – Prior Lake, MN – July 18 and/or 20, 2017, noting an additional request for Councilman Tehassi Hill to attend as well, seconded by Jennifer Webster. Motion carried with one abstention:

Secretary Lisa Summers departs at 11:47 a.m. before voting occurs.

Ayes: Fawn Billie, David Jordan, Jennifer Webster
Abstained: Tehassi Hill
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens, Lisa Summers

XII. GENERAL TRIBAL COUNCIL (To obtain a copy of Members Only materials, visit the BC Support Office, 2nd floor, Norbert Hill Center and present Tribal I.D. card or go to <https://goo.gl/uLp2jE>)

Secretary Lisa Summers returns at 11:50 a.m.

A. Accept Petitioner Edward Delgado's request to withdraw kindergarten retention petition

Sponsor: Fawn Billie, Councilwoman (3:16:23)

Motion by Tehassi Hill to accept Petitioner Edward Delgado's request to withdraw kindergarten retention petition filed on November 12, 2016, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

DRAFT**B. Petitioner Sherrole Benton: Request to change pre-employment drug testing for marijuana****1. Accept status update as information (3:18:07)**

Sponsor: Lisa Summers, Tribal Secretary

Motion by Tehassi Hill to accept the status update as information regarding Petitioner Sherrole Benton: Request to change pre-employment drug testing for marijuana, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

EXCERPT FROM MAY 24, 2017: (1) Motion by Lisa Summers to accept the financial analysis, seconded by Jennifer Webster. Motion carried unanimously. (2) Motion by Lisa Summers to direct the Secretary to come back with a proposed General Tribal Council date for this item at the next regular Business Committee meeting; and to direct the Secretary to follow-up with the petitioner to see if there's an alternative way for the issue to be resolved, seconded by Fawn Billie. Motion carried unanimously.

EXCERPT FROM MAY 10, 2017: Motion by Fawn Billie to defer the financial analysis to the May 24, 2017 regular Business Committee meeting, seconded by David Jordan. Motion carried unanimously.

EXCERPT FROM APRIL 26, 2017: Motion by Jennifer Webster to defer the financial analysis to May 10, 2017, regular Business Committee meeting, seconded by Fawn Billie. Motion carried unanimously.

EXCERPT FROM APRIL 12, 2017: (1) Motion by David Jordan to accept the legal analysis, seconded by Jennifer Webster. Motion carried unanimously. (2) Motion by Lisa Summers to defer the financial analysis to the April 26, 2017, regular Business Committee meeting, seconded by David Jordan. Motion carried unanimously.

EXCERPT FROM MARCH 22, 2017: (1) Motion by David Jordan to accept the legislative analysis, seconded by Tehassi Hill. Motion carried unanimously. (2) Motion by Tehassi Hill to defer the legal analysis to the April 12, 2017, regular Business Committee meeting, seconded by Lisa Summers. Motion carried unanimously. (3) Motion by David Jordan to defer the financial analysis to the April 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

EXCERPT FROM MARCH 8, 2017: (1) Motion by Brandon Stevens to accept the progress report regarding legislative analysis, seconded by Tehassi Hill. Motion carried unanimously. (2) Motion by Jennifer Webster to accept the progress report regarding the legal analysis, seconded by Fawn Billie. Motion carried unanimously. (3) Motion by Jennifer Webster to accept the progress report regarding the financial analysis, seconded by Brandon Stevens. Motion carried unanimously.

EXCERPT FROM JANUARY 11, 2017: (1) Motion by Lisa Summers to accept the verified petition from Sherrole Benton regarding a request to change pre-employment drug testing for marijuana use; to send the verified petition to the Law, Finance, Legislative Reference, and Direct Report Offices for the legal, financial, legislative, and administrative analyses to be completed; and to direct the Law, Finance, and Legislative Reference Offices to submit their analyses to the Tribal Secretary's Office within sixty (60) days, and that a progress report be submitted in forty-five (45) days, seconded by Fawn Billie. Motion carried unanimously.

DRAFT**C. Approve four (4) actions regarding Petitioner Edward Delgado: Trust Land Distribution**

Sponsor: Lisa Summers, Tribal Secretary

No formal action was taken on this item.

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

~~1. Accept legislative analysis~~Sponsor: ~~Brandon Stevens, Councilman/Legislative Operating Committee Chair~~*Item deleted at the adoption of the agenda*

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

*Councilman David Jordan departs at 11:56 a.m.***D. Accept correspondence to GTC dated June 19, 2017, as information (3:22:05)**

Sponsor: Lisa Summers, Tribal Secretary

Motion by Jennifer Webster to accept correspondence to GTC dated June 19, 2017, as information, seconded by Tehassi Hill. Motion carried unanimously:

Ayes:	Fawn Billie, Tehassi Hill, Lisa Summers, Jennifer Webster
Not Present:	Melinda J. Danforth, David Jordan, Trish King, Brandon Stevens
For the record:	Chairwoman Tina Danforth stated I believe my constitutional rights were violated in assisting my office of the Chairwoman to provide for a General Tribal Council on June 28 th . My office took the necessary steps to provide for an agenda, to provide for the backup materials, to provide for the mailer to go out, but when the Secretary took it upon herself to have Printing not send out the mailer because she was informed otherwise by the Business Committee's e-poll and this is just now coming to the agenda due to other delay of people's availability, but regardless of that, I think my office, the office of the Chairwoman did do to the best of her ability in utilizing staff and resources to inform General Tribal Council of a meeting for June 28 th which would have met the 10 day notice policy had the June 16 th not interfered and provide other clarification, other unsolicited to the Print department.
For the record:	Secretary Lisa Summers stated I also have a for the record comments, noting that the material submitted by the Chairwoman's office for printing for the June 28 th date did not meet the 10 day notice requirement as it had new items on the agenda with no backup material on them and that the Printing department had notified the Chairwoman's office when it was submitted to them on June 13 th that it would not meet the 10 day notice requirements at that point and as a matter of fact had noticed the Chairwoman's office on at least two occasions that the materials did not meet the 10 day notice requirements and that they did seek input from the Secretary's office as the normal process is. That a full analysis was completed including the use of previous General Tribal Council meetings, the 10 day notice policy which was adopted by General Tribal Council, the Constitution, the Secretary's job description, and all of the applicable, and I believe there's four of them legal opinions regarding this subject.

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For the record: Chairwoman Tina Danforth stated I just wanted to note that on June 13th there was not a notice to my staff that we were not going to meet the 10 day requirements. The conversation on June 13th was that there was other printing demands for the July 17th meeting and because of those other printing demands we were advised to outsource the mailer and we then took steps necessary to have the mailer outsourced to meet the 10 day notice requirement. Everything was done in accordance with advisement of the Printing department in order to provide a 10 day notice again until other analysis took place after the fact.

For the record: Secretary Lisa Summers stated I also want included then as well and I believe this is a part of the analysis that the Printing department did provide a chronology of events that took place between the Printing department and your office and my office and indicated in that chronology of events it is provided. I can definitely go back and double check with them, but they did provide in writing that your office was notified, Madam Chair, that the 10 day notice requirements would not be met so that is information I need to go by because that came from the staff.

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

E. Approve August 14, 2017, special GTC meeting materials (00:07:20)

Sponsor: Lisa Summers, Tribal Secretary

Motion by Lisa Summers to approve the August 14, 2017, special GTC meeting materials, seconded by Fawn Billie. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

F. Enter E-Poll results into the record in accordance with OBC SOP entitled Conducting Electronic Voting:

Sponsor: Lisa Summers, Tribal Secretary

1. Approved memorandum to cancel the June 20, 2017, special GTC meeting; and direct the Tribal Secretary to combine agenda items to a later date with the Employment law and Re-organization proposal

Requestor: Brandon Stevens, Councilman

Motion by Lisa Summers to enter the E-Poll results into the record for the approved memorandum to cancel the June 20, 2017, special GTC meeting; and to direct the Tribal Secretary to combine agenda items to a later date with the Employment law and Re-organization proposal, seconded by Jennifer Webster. Motion not formally voted on: **(3:48:52)**

Ayes: Fawn Billie, Tehassi Hill, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, David Jordan, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

Motion by Lisa Summers to recess for ten minutes, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, David Jordan, Trish King, Brandon Stevens

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Meeting called to order by Chairwoman Danforth at 12:48 p.m.

Vice-Chairwoman Melinda J. Danforth, Councilman David Jordan, Treasurer Trish King, and Councilman Brandon Stevens not present.

Councilman David Jordan returns at 12:53 p.m.

- 2. Approved correspondence which directs the Oneida Law Office to file a request with the Judiciary to provide Declaratory, Injunctive, or Other Relief regarding requirement to properly notice special GTC meeting materials for the identified June 28, 2017, date**
Requestor: Lisa Summers, Tribal Secretary **(4:02:26)**

Motion by Lisa Summers to enter the E-Poll results into the record for the approved correspondence which directs the Oneida Law Office to file a request with the Judiciary to provide Declaratory, Injunctive, or Other Relief regarding requirement to properly notice special GTC meeting materials for the identified June 28, 2017, date, seconded by Tehassi Hill. Motion carried with one abstention:

Ayes: Fawn Billie, Tehassi Hill, Lisa Summers, Jennifer Webster
Abstained: David Jordan
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens
For the record: Chairwoman Tina Danforth stated this is another example of where eight individuals acted without consulting with myself as the Chair.

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

- 3. Failed request to approve scheduling a special GTC meeting on October 22, 2017**
Requestor: Lisa Summers, Tribal Secretary **(4:08:58)**

Motion by Lisa Summers to enter the E-Poll results into the record for the failed request to approve scheduling a special GTC meeting on October 22, 2017, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer the remaining agenda items to the July 12, 2017, regular Business Committee meeting, seconded by Tehassi Hill. Motion carried unanimously.

- 4. Approved correspondence to be sent out organization-wide regarding request made by Chairwoman Danforth which indicates her calling a special GTC meeting on June 28, 2017 (4:09:40)**

Requestors: Melinda J. Danforth, Tribal Vice-Chairwoman; Trish King, Tribal Treasurer; Lisa Summers, Tribal Secretary; Fawn Billie, Councilwoman; Tehassi Hill, Councilman; David Jordan, Councilman; Brandon Stevens, Councilman; Jennifer Webster, Councilwoman

Motion by Lisa Summers to enter the E-Poll results into the record for the approved correspondence to be sent out organization-wide regarding request made by Chairwoman Danforth which indicates her calling a special GTC meeting on June 28, 201, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

DRAFT**XIII. EXECUTIVE SESSION****A. REPORTS****1. Accept Chief Counsel report – Jo Anne House, Chief Counsel (4:10:30)**

Motion by Lisa Summers to accept the Chief Counsel report dated July 11, 2017, seconded by Fawn Billie. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

B. STANDING ITEMS**1. Land Claims Strategy (No Requested Action)****C. AUDIT COMMITTEE (No Requested Action)****D. UNFINISHED BUSINESS****1. Defer report regarding contract # 2017-0088 to July 26, 2017, regular Business Committee meeting (4:11:09)**

Sponsors: Lisa Summers, Tribal Secretary; Jennifer Webster, Councilwoman

Motion by Lisa Summers to defer the report regarding contract # 2017-0088 to July 26, 2017, regular Business Committee meeting, seconded by Fawn Billie. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM APRIL 26, 2017: Motion by Fawn Billie to defer the report regarding contract # 2017-0088 for sixty (60) days, seconded by Brandon Stevens. Motion carried unanimously.

EXCERPT FROM FEBRUARY 8, 2017: Motion by Lisa Summers to direct Liaisons Councilwoman Jennifer Webster and Secretary Lisa Summers to work with the Law Office on a contract item that was brought forward; and to bring back a report to the Business Committee within sixty (60) days, seconded by Trish King. Motion carried unanimously.

2. Determine next steps regarding non-gaming employee incentive proposal for FY18

Sponsor: Geraldine Danforth, Area Manager/Human Resources Dept. (4:11:41)

Motion by Lisa Summers to accept the recommendations provided by the Human Resources Manager in the memorandum dated July 11, 2017, titled Employee Incentive FY18, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer this item to the July 12, 2017, regular Business Committee meeting, seconded by Jennifer Webster. Motion carried unanimously.

EXCERPT FROM MAY 24, 2017: (1) Motion by Lisa Summers to accept the Gaming request for the employment reinvestment strategy for Fiscal Year 2018 to include items 1, 2, and 3 with the agreed upon modifications, noting a final adjustment may be needed as the budget process for the 2018 proceeds, seconded by Tehassi Hill. Motion carried unanimously. (2) Motion by Fawn Billie for the Human Resources Department to bring back an employee incentive proposal for the non-gaming entities for inclusion in the Fiscal Year 2018 budget, seconded by Lisa Summers. Motion carried unanimously.

DRAFT**3. Review recommendation; and agree on final decision regarding complaints # 2017-DR08-01, # 2017-DR08-02, and # 2017-DR08-03 (4:18:16)**

Sponsors: David Jordan, Councilman; Brandon Stevens, Councilman; Jennifer Webster, Councilwoman

Motion by Lisa Summers to defer this item to the July 26, 2017, regular Business Committee meeting for the team to do the additional follow-up that was identified, seconded by Jennifer Webster. Motion carried with one abstention:

Ayes: Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Abstained: Fawn Billie
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

EXCERPT FROM JULY 3, 2017: (Reconvened from June 28, 2017) Motion by Lisa Summers to defer this item to the July 12, 2017, regular Business Committee meeting, seconded by Jennifer Webster. Motion carried unanimously.

E. NEW BUSINESS**1. Discussion regarding complaint # 2017-CC-05 (4:19:22)**

Sponsor: David Jordan, Councilman

Motion by Lisa Summers to defer this item to the July 25, 2017, Oneida Business Committee executive session agenda for a 9:00 a.m. start time, seconded by David Jordan. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

2. Review community concern # 2017-CC-10 and determine next steps (4:20:15)

Sponsor: Tina Danforth, Tribal Chairwoman

Motion by Lisa Summers to support the Chairwoman's request for a response from the Division Director on the identified issue to indicate how and/or if the matter has been addressed with a time frame included, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

3. Review complaint # 2017-DR11-01 (4:20:51)

Sponsor: Melinda J. Danforth, Tribal Vice-Chairwoman

Motion by Jennifer Webster to defer this item to the Oneida Business Committee Officers for follow up with the Comprehensive Health Operations Division Director; and for a report to be brought back to the July 26, 2017, regular Business Committee meeting, seconded by Fawn Billie. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
 Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

DRAFT

XIV. ADJOURN

Motion by Lisa Summers to adjourn at 1:06 p.m., seconded by Fawn Billie. Motion carried unanimously:
Ayes: Fawn Billie, Tehassi Hill, David Jordan, Lisa Summers, Jennifer Webster
Not Present: Melinda J. Danforth, Trish King, Brandon Stevens

Minutes prepared by Heather Heuer, Information Management Specialist
Minutes approved as presented on _____.

Lisa Summers, Secretary
ONEIDA BUSINESS COMMITTEE

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

We request that the BC pass this Resolution in support of the Internal Services Divisions grant application.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter:
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

The Bureau of Indian Affairs requires a Tribal Resolution granting permission to apply be included with this grant application.

This grant will fund a feasibility study that will investigate the possible uses for the Oneida Nations Free Trade Zone. The overall goal of the project is to determine viable uses that can contribute to the reservations employment base and thereby strengthen Tribal sovereignty.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidation.org

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # Leave this line blank

Native American Business Development Institute (NABDI) Feasibility Study

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Oneida Nation is committed to the development of employment opportunity for community members living on or near the Oneida Nation reservation; and
- WHEREAS,** The Oneida Nation is committed to economic development as a means of supporting Oneida Tribal sovereignty; and

NOW THEREFORE BE IT RESOLVED, "the Oneida Nation will enter into an agreement with a research institution to conduct a feasibility study regarding the potential development of the Oneida Free Trade Zone as a means of encouraging economic development and job creation on the Oneida Nation reservation."

NOW THEREFORE BE IT RESOLVED, "The Oneida Nation agrees to consider pursuing any opportunity for economic development that is identified by this feasibility study."

NOW THEREFORE BE IT RESOLVED, "The Oneida Nation will adhere to its three bid process to solicit an agency to conduct this feasibility study."

NOW THEREFORE BE IT RESOLVED, "The Oneida Nation recognizing the need for fiscal transparency regarding the use of federal dollars and agrees to make the results of their feasibility study available as required by the Department of the Interior and the Bureau of Indian Affairs."

BE IT FINALLY RESOLVED, "That the Oneida Business Committee authorizes the Internal Services Division to apply for a grant related to the development of the Oneida Free Trade Zone."

GRANT PROPOSAL AUTHORIZATION FORM

ONEIDA GRANTS OFFICE

PH: (920) 496-7330 FAX: (920) 496-7494

Form instructions: Double click on the grey area; a drop down called "form field option box" box will appear. In the "items drop-down list" click on which one you want; then click on the "up" arrow move it to the top and click on ok. In the reporting area: Double click on the box you want to put an "x" in. A "checkbox form field" box will appear, in "under default value" click on "checked" then ok.

PROGRAM INFORMATION

Department: Administration	Division/Non-Division: Internal Services	
Program: Economic development	Program Accountant:	
Person Responsible for proposal development: Joanie Buckley	Phone: 920-496-7425	
Person Responsible for grant administration: Joanie Buckley	Phone: 920-496-7425	
Project Title: Oneida Nation – Economic Development feasibility study project		

GRANT INFORMATION

Name of Funding Source: Depart of the Interior - Bureau of Indian Affairs		Type (pick one): Federal
Title of Grant: Solicitation for Proposals for Funding From the Native American Business Development Institute (NABDI) Feasibility Study Program		CFDA No: 15.133
Application Deadline: August 12, 2017		Grant Amount: \$100,000
Project Period: 12 months	Budget Period: 10-1-2017 to 9-30-2018	Type of Project (pick one): Feasibility Study
Match Requested (% or \$): \$ No		Match Type (pick one): N/A
Is a Tribal resolution required? If yes, please notify Grants Office immediately. Yes (preferred)		
Will this grant create a: New position No Committee No Commission No Board No		
Will this grant fund an existing position? No Name of Position(s):		
If YES, attach draft job description for all grant funded positions. PLEASE NOTE: Position/employee will be phased out when grant funding ends.		

Project Proposal Summary (must answer all these questions): The purpose, benefit(s), where is the match coming from, are there any other programs collaborating, travel justification, position justification, or pertinent information:

List any capital expenditures (cap ex), technology expenses & CIP purchases (NOTE: Must follow the appropriate Cap ex, CIP or Technology SOP for each purchase request.): NONE

Vendors: Verified that Vendors contracted with are NOT suspended/debarred: Yes No NA

*Prior to entering into contracts with vendors, they will be cross referenced at www.sam.gov to ensure the vendors are not suspended or debarred.

Reporting: Quarterly Semi-Annually Yearly Narrative Financial

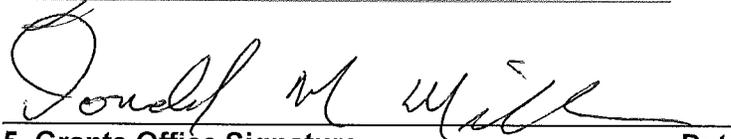
SIGNATURES

Your signature authorizes the person responsible for proposal development to work with the Grants Office when applying for funding and acknowledges your responsibility to successfully administer all requirements of this grant throughout the project period and budget period.

1. Supervisor Signature **Date**
SIGNATURE VERIFIES & APPROVES MATCH

 7/18/17

4. Division/Non-Division Director Signature **Date**
SIGNATURE APPROVES GRANT PROJECT & MATCH



5. Grants Office Signature **Date**
FINAL SIGNATURE PRIOR TO OBTAINING OBC SIGNATURES

Revised: 12/19/16

GO-001

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Consider adoption of amendments to the Well Abandonment Law

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="Adoption packet"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jennifer Falck, LRO Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chairperson *BS*
DATE: July 26, 2017
RE: Well Abandonment Law Amendments

Please find the following attached backup documentation for your consideration of the Well Abandonment Law Amendments:

1. Resolution: Well Abandonment Law Amendments
2. Statement of Effect: Well Abandonment Law Amendments
3. Well Abandonment Law Amendments: Legislative Analysis
4. Well Abandonment Law Amendments: Clean Draft
5. Well Abandonment Law Amendments: Redline to Current Draft
6. Well Abandonment Law Amendments: Fiscal Impact Statement

Overview

This resolution adopts amendments to the Well Abandonment Law to transfer the Environmental Resource Board's hearing authority to the Judiciary.

In accordance with the Legislative Procedures Act, a public meeting was held regarding this law on June 15, 2017 with a comment period closing on June 29, 2017. There were no comments provided. These amendments will become effective beginning in the new fiscal year on October 1, 2017.

Requested Action

Approve the Resolution: Well Abandonment Law Amendments

BC Resolution _____*Well Abandonment Law Amendments*

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WHEREAS, the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, the Oneida Business Committee originally adopted the Well Abandonment Law through resolution BC-09-12-12-B and thereafter amended it through resolution BC-08-31-94-A; and

WHEREAS, the Amendments to the Law transfer the Environment Resource Board's original hearing body authority and responsibilities to the Oneida Judiciary as part of an effort to standardize and streamline all of the Nation's hearing responsibilities; and

WHEREAS, a public meeting on the proposed Amendments was held on June 15, 2017 in accordance with the Legislative Procedures Act; and

NOW THEREFORE BE IT RESOLVED, that the Well Abandonment Law Amendments are hereby adopted and shall become effective on October 1, 2017.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



Statement of Effect

Well Abandonment Law Amendments

Summary

This Resolution adopts Amendments to the Well Abandonment Law Amendments (the “Law”) which transfer the Environmental Resource Board’s original hearing body authority to the Oneida Judiciary.

Submitted by: Krystal L. John, Staff Attorney, Oneida Law Office

Analysis by the Legislative Reference Office

As stated above, these amendments will transfer the delegation of original hearing body authority from the Environmental Resource Board to the Oneida Judiciary. Such a transfer would implicate the Judiciary law and the Environmental Resource Board’s by-laws.

The transfer of hearing body authority would fit into the Oneida Judiciary’s subject matter jurisdiction according to the Judiciary law based on section 801.5-2, which provides that, “The Trial Court shall have subject matter jurisdiction over cases and controversies arising under the following... (a) Tribal laws which specifically authorize the Trial Court to exercise jurisdiction...” *Judiciary*, 8 O.C. 801 § 801.5-2. These amendments to the Law specifically authorize the Trial Court to exercise jurisdiction based on section 406.7-4. *Contested Action Hearings*, which reads as follows:

All citations, penalties, forfeitures, orders and declarations issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all persons entering a plea contesting the fact that they committed the act for which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also make conditional orders at the prehearing which are effective until the matter is resolved. ...

(c) Appealing the Decision of the Judiciary Trial Court. Any person wishing to contest the determination of the Judiciary Trial Court may appeal to the Judiciary Court of Appeals in accordance with the Rules of Appellate Procedure. ...

The Environmental Resource Board’s by-laws provide the Board’s duties and responsibilities, among other things. Adoption of this law conflicts with the Board’s by-laws and the by-laws recognize the Environmental Resource Board’s original hearing body authority in section 1-4.b., which reads as follows: “The ERB shall serve as the original hearing body in matters concerning environmental and conservation laws and ordinances promulgated by the Oneida Tribe.” Accordingly, if this resolution is adopted, the Environmental Resource Board’s by-laws would need

to be amended to remove the original hearing body authority from the Board's duties and responsibilities.

A public meeting was held for these Amendments on June 15, 2017 for which the public comment period expired on June 22, 2017 in accordance with the Legislative Procedures Act. There were not any oral or written comments submitted.

Conclusion

Adoption of this Resolution would require the Environmental Resource Board's by-laws to be amended to remove the original hearing body authority from the Board's duties and responsibilities.



Hearing Authority Transfer Legislative Analysis

SECTION 1. BACKGROUND

REQUESTER: LOC	SPONSOR: Tehassi Hill	DRAFTER: Krystal L. John	ANALYST: Candice E. Skenandore
Intent of the Amendments	To further utilize the Judiciary.		
Purpose	To transfer the Environmental Resource Board (ERB) hearing authority to the Judiciary.		
Affected Entities	Trial Court, ERB		
Affected Legislation	Hunting, Fishing and Trapping law, Public Use of Tribal Land, Tribal Environmental Response, Well Abandonment Law, All-Terrain Vehicle Law, Water Resources Ordinance		
Enforcement/Due Process	ERB will no longer hold hearings; hearing will now be conducted by the Trial Court in accordance with the Rules of Civil Procedure.		
Public Meeting	A public meeting was held on June 15, 2017.		

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A.** Since 1985, ERB served as the hearing body authority over the Nation’s environmental regulations.
- 3 On May 2, 1990, the Oneida Business Committee established the Oneida Tribal Judicial System (aka
- 4 Oneida Appeals Commission) and General Tribal Council reauthorized the Oneida Tribal Judicial
- 5 System on August 19, 1991 [*See BC Resolution 05-02-90 and GTC Resolution 8-19-91-A*]. The
- 6 purpose of the Oneida Appeals Commission was to enhance and protect self-governance and
- 7 sovereignty as well as enhance the separation of powers between the legislative, executive and
- 8 juridical responsibilities of the Nation. The Oneida Appeals Commission removed the Oneida
- 9 Business Committee from initial judicial decisions [*See GTC Resolution 8-19-91-A*].
- 10 **B.** In 2013, the General Tribal Council changed the structure of the Oneida Tribal Judicial System by
- 11 creating an Oneida Judiciary comprised of the Tribal Court and a Court of Appeals through the
- 12 adoption of the Judiciary law. The purpose of the Judiciary is to grant the Trial Court and Court of
- 13 Appeals expanded subject matter jurisdiction and create a greater role for the use of mediation and/or
- 14 peacemaking [*See GTC Resolution 01-07-13-B*].
- 15 **C.** These proposed amendments will transfer hearing authority from ERB to the Trial Court. The
- 16 following laws are amended to reflect the transfer of hearing authority:
- 17 ▪ Hunting, Fishing and Trapping law (HTF)
 - 18 ▪ Public Use of Tribal Land (Public Use)
 - 19 ▪ Tribal Environmental Response (TERP)
 - 20 ▪ Well Abandonment Law (Well Abandonment)
 - 21 ▪ All-Terrain Vehicle Law (ATV)
 - 22 ▪ Water Resources Ordinance (Water Resources)
 - 23 ▪ On-Site Waste Disposal Ordinance (Waste Disposal)
- 24

SECTION 3. CONSULTATION

25

26 A. ERB and the Trial Court have been consulted in the development of this legislative analysis.
27

28 **SECTION 4. PROCESS**

29 A. These Laws have followed the process set forth in the Legislative Procedures Act (LPA) except that
30 the public meeting was not properly noticed to all managers or directors. The LPA requires the public
31 meeting notice, legislation, legislative analysis and fiscal impact statement, if fiscal impact statement is
32 available, to be electronically provided to all managers or directors a minimum of ten business days
33 before a public meeting is held [*See Legislative Procedures Act, 1 O.C. 109.8-2 (b)*]. The notice and
34 backup documents were provided electronically to all managers or directors on Tuesday, June 13, 2017;
35 the public meeting was held Thursday, June 15, 2017. The public meeting was properly noticed in the
36 Kalihwisaks and was made public on the Oneida Register at least ten business days prior to the public
37 meeting as required by the LPA [*See Legislative Procedures Act, 1 O.C. 8-2 (a & b)*]. The LOC
38 extended the public comment period for these laws for an additional five business days, ending on
39 Thursday, June 29, 2017.

40 B. A work meeting with ERB was held on Wednesday, May 17, 2017 and a work meeting with ERB and
41 the Judiciary was held on Monday, June 12, 2017.
42

43 **SECTION 5. CONTENTS OF THE LEGISLATION**

44 A. The identified laws in Section 2.C of this analysis have been amended to state that the Trial Court is
45 the entity authorized to conduct hearings.
46

47 **SECTION 6. INTENT**

48 A. The intent of these amendments is to further utilize the Oneida Judiciary. The LOC has already
49 decided to transfer hearing authority from identified entities to the Judiciary. The majority of the
50 Oneida Land Commission's and some of the Trust Enrollments Committee's hearing authority has
51 already transferred to the Judiciary. Because the LOC is currently working on amendments the
52 Domestic Animals law in which ERB has hearing authority, it was decided to amend all laws which
53 grant ERB hearing authority and transfer that authority to the Judiciary.
54

55 **SECTION 7. EFFECT ON EXISTING LEGISLATION**

56 A. These amendments do not conflict with other laws or policies of the Nation.
57

58 **SECTION 8. OTHER CONSIDERATIONS**

59 A. The following table shows the type and approximate number of hearings ERB has held since 2012.
60 Included are hearings that pertain to Domestic Animals violations; however, the Domestic Animal
61 amendments are being processed separately in order to make further revisions. In total, ERB has held
62 approximately 69 hearings since 2012.
63

64

	ATV	HFT	Waste Disposal	Public Use	TERP	Water Resources	Well Abandonment	Domestic Animal	TOTAL
2012	0	1	0	0	0	0	0	1	2
2013	0	5	0	0	0	0	0	0	5
2014	0	14	0	0	0	0	0	3	17
2015	0	0	0	1	0	0	0	6	7
2016	0	11	0	2	0	0	0	19	32
2017	0	2	0	0	0	0	0	4	6
TOTAL	0	33	0	3	0	0	0	33	69

65 **B.** Minor changes, including formatting, have been made to these laws to comply with drafting style.

66 These changes do not affect the content of these laws.

67 **C.** Please refer to the fiscal impact statement for any financial impacts.

68

69 SECTION 9. ADDITIONAL AMENDMENTS

70 **A. *Hunting, Fishing, and Trapping law (Law)*.** In additions to the amendments which transfer ERB's
 71 hearing authority to the Judiciary, additional amendments were made to the Hunting, Fishing, and
 72 Trapping law. These amendments include revising section 406.4-3 which states that this Law does
 73 not negate the jurisdiction of the State of Wisconsin in instances that involve non-member Indians
 74 and non-Indians. This means that non-member Indians and non-Indians hunting, fishing and trapping
 75 on land owned by the Nation must adhere to the Nation's license, permit and tag requirements but
 76 may also be subject to State requirements. In addition, license and permit holders cannot utilize
 77 hunting, fishing, or trapping privileges within the Reservation using a State license that would
 78 provide greater privileges than those afforded in this Law and any applicable rules [*See Hunting,*
 79 *Fishing and Trapping, 4 O.C. 406.4-3*].

80

For OBC Consideration (Draft 1)
2017 07 26 – Clean

Title 4. Environment and Natural Resources—Chapter 404

WELL ABANDONMENT
Tsi? Kahne·kóte Kayanl'khsla
our laws of the wells

404.1. Purpose and Policy
404.2. Adoption, Amendment, Repeal
404.3. Definitions
404.4. Abandonment Required

404.5. Well Operation Permit
404.6. Abandonment Procedures
404.7. Penalties
404.8. Conflict with Federal

404.1. Purpose and Policy

404.1-1. The purpose of this law is to require the abandonment or upgrading of all unused, unsafe or noncomplying wells located within the exterior Reservation boundaries of the Oneida Nation to prevent contamination of groundwater.

404.1-2. The proper abandonment of wells protects public health, safety and welfare by assuring that unused, unsafe or noncomplying wells, or wells which may serve as conduits for contamination, or wells which may be illegally cross-connected to the municipal water system, are properly abandoned.

404.2. Adoption, Amendment, Repeal

404.2-1. This law was adopted by the [Oneida Business Committee or Oneida General Tribal Council] by resolution BC-8-31-94-A and amended by resolution _____.

404.2-2. This law may be amended or repealed by the [Oneida Business Committee and/or Oneida General Tribal Council] pursuant to the procedures set out in the Legislative Procedures Act.

404.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

404.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

404.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

404.3. Definitions

404.3-1. All words used herein shall have their ordinary meaning unless specifically defined within this section.

404.3-2. Unless otherwise stated within this law, the following specific definitions shall apply:

(a) "Municipal water system" means a system for the provision to the public of piped water for human consumption when such system has at least 15 service connections or regularly serves at least 25 year-round residents owned or operated by a city, village, county, town, town sanitary district or public institution, or a privately owned water utility serving any of the above.

(b) "Noncomplying" means a well or a pump installation which does not meet the provisions of NR 112, Wis. Admin. Code.

(c) "Pump installation" means the pump and related equipment used for withdrawing

For OBC Consideration (Draft 1)

2017 07 26 – Clean

35 water from a well including the discharge piping, the underground connections, pitless
36 adapters, pressure tanks, pits, sampling faucets and well seals or caps.

37 (d) “Unsafe” means a well or pump installation which produces water which is
38 bacteriologically contaminated or contaminated with substances exceeding the standards
39 of chs. NR 809 or 140, Wis. Admin. Code, or for which a Health Advisory has been
40 issued.

41 (e) “Unused” means a well or pump installation which has not been in use for three (3)
42 months prior to the date of the adoption of this Law or has not had a functional pumping
43 system for three consecutive months.

44 (f) “Well” means an excavation or opening into the ground made by digging, boring,
45 drilling, driving, or other methods for the purpose of obtaining groundwater for
46 consumption or other use.

47 (g) “Well Abandonment” means the filling and sealing of a well according to the
48 provisions set out herein or by adoption within this code of §NR 112.26, Wis. Admin.
49 Code.

50

51 **404.4. Abandonment Required**

52 404.4-1. All wells located on premises served by a municipal water system or, regardless of
53 location, are unused or of noncomplying construction, shall be abandoned in accordance with the
54 terms of this law and §NR 112.26, Wis. Admin. Code, unless a well operation permit has been
55 obtained from the Oneida Environmental Health and Safety Division within three (3) months of
56 adoption of this law, prior to opening a well after adoption of this law, or a renewal permit was
57 granted within three months of expiration of prior permits.

58

59 **404.5. Well Operation Permit**

60 404.5-1. The Oneida Environmental Health and Safety Division may grant a yearly well
61 operation permit to a private well owner to operate a well for a period not to exceed five (5)
62 years, providing the conditions of this section are met. An owner may request renewal of a well
63 operation permit by submitting information verifying that the conditions of this section are met.

64 404.5-2. The following requirements must be met prior to granting a permit

65 (a) A yearly water quality test is performed at the owner’s expense.

66 (b) The Oneida Environmental Health and Safety Division or its agent, may conduct
67 inspections or have water quality tests conducted to obtain or verify information
68 necessary for consideration of a permit application, on an annual basis for reverification,
69 or upon request for permit renewal.

70 (c) Permit applications and renewals shall be made on forms provided by the Oneida
71 Environmental Health and Safety Division.

72 404.5-3. The following conditions must be met for issuance or renewal of a well operation
73 permit.

74 (a) The well and pump installation meet or are upgraded to meet the requirements of ch.
75 NR 112, Wis. Admin. Code; and

76 (b) The well construction and pump installation have a history of producing
77 bacteriologically safe water as verified by sampling histories. No exception to this

For OBC Consideration (Draft 1)
2017 07 26 – Clean

78 condition may be made for unsafe well, unless the Oneida Environmental Health and
79 Safety Division provides the appropriate form for the continued use of the well; and
80 (c) There are no cross-connections between the well and pump installation and the
81 municipal water system; and
82 (d) The proposed use of the well and pump installation will be reviewed on a case by
83 case basis.

84

85 **404.6. Abandonment Procedures**

86 404.6-1. All wells abandoned under the jurisdiction of the Oneida Nation shall be abandoned
87 according the procedures and methods set out herein and supplemented in §NR 112.26, Wis.
88 Admin. Code. Provided that, any notification within the state regulation shall be superseded and
89 integrated as reasonable with the notification procedures herein.

90 404.6-2. The owner of the well, or the owner's agent, shall notify the Oneida Environmental
91 Health and Safety Division at least 48 hours prior to the commencement of any well
92 abandonment activities. The abandonment of the well may be observed by the Oneida
93 Environmental Health and Safety Division, or its designated agent.

94 404.6-3. A well abandonment report will be completed and submitted by the owner's agent, to
95 the Oneida Environmental Health and Safety Division within 10 days of the completion of the
96 well abandonment. The well abandonment report form is available from the Oneida
97 Environmental Health and Safety Division.

98 404.6-4. All debris, pump, piping, unsealed liners and any other obstructions which may
99 interfere with sealing operations shall be removed prior to abandonment.

100

101 **404.7. Penalties**

102 404.7-1. Any well owner or agent violating any provision of this law shall be subject to
103 forfeiture of not less than \$100 nor more than \$1,000. Each day of violation is a separate
104 forfeiture. Provided that each forfeiture be proven individually.

105 404.7-2. Failure to comply with this law within ten (10) working days after receiving written
106 notice of this violation, the Oneida Nation may impose a penalty and cause the well
107 abandonment to be performed at the expense of the well owner.

108 404.7-3. It shall be a valid defense to any continuing forfeiture that the well owner has begun
109 procedures to abandon the well and shall be by sworn affidavit that notice has been presented to
110 the Oneida Environmental Health Program of approved well abandonment procedure.

111 406.7-4. Contested Action Hearings. All citations, penalties, forfeitures, orders and
112 declarations issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial
113 Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30)
114 days after the citation was issued. Persons wishing to contest a citation shall appear at the
115 prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or
116 admit committing the act for which the citation was issued. The Judiciary shall schedule a
117 hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days
118 of the date of the prehearing, for all persons entering a plea contesting the fact that they
119 committed the act for which a citation was issued. In addition to scheduling requested hearings,
120 the Judiciary may also make conditional orders at the prehearing which are effective until the

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2017 07 26 – Clean

121 matter is resolved.

122 (a) Community Service. Community service may be substituted for fines at the
123 Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of
124 one (1) hour per ten dollars (\$10.00) of the fine.

125 (b) Allocation of Citation Revenue. All fines and penalties issued by citations are
126 payable to the Environmental Resource Board or its designee, the proceeds of which the
127 Environmental Resource Board shall contribute to the Nation's general fund.

128 (c) Appealing the Decision of the Judiciary Trial Court. Any person wishing to contest
129 the determination of the Judiciary Trial Court may appeal the applicable determination to
130 the Judiciary's Court of Appeals in accordance with the Rules of Appellate Procedure.

131 (d) Pursuing Payment of a Citation. The Environmental Resource Board may pursue
132 payment from parties who have failed to make the required payments through the
133 garnishment process contained in the Garnishment law and/or by attaching a Tribal
134 member's per capita payment pursuant to the Per Capita law.

135

136 **404.8. Conflict with Federal.**

137 404.8-1. Should any part of this law be found to be in conflict with federal requirements which
138 are required in order that the Oneida Nation receive federal funds, the conflicting section of this
139 law is to be considered inoperative only for the purpose of the particular funding and that
140 particular conflict. Provided that any consideration in regards to federal funding does not
141 undermine the purposes and policies of this law. Such conflict shall not affect the operation of
142 the remainder of this law in its application to those agencies or department directly affected.

~~143~~

144

145

146

Adopted - BC-8-31-94-A

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Title 4. Environment and Natural Resources—Chapter 404

WELL ABANDONMENT LAW

Tsi? Kahne·kóte Kayanláhsla

our laws of the wells

404.1. Purpose and Policy	404.5. Well Operation Permit
404.2. Adoption, Amendment, Repeal	404.6. Abandonment Procedures
404.3. Definitions	404.7. Penalties
404.4. Abandonment Required	404.8. Conflict with Federal

404.1. Purpose and Policy

404.1-1. The purpose of this law is to require the abandonment or upgrading of all unused, unsafe or noncomplying wells located within the exterior Reservation boundaries of the Oneida ~~Tribe of Indians~~ Nation to prevent contamination of groundwater.

404.1-2. The proper abandonment of wells protects public health, safety and welfare by assuring that unused, unsafe or noncomplying wells, or wells which may serve as conduits for contamination, or wells which may be illegally cross-connected to the municipal water system, are properly abandoned.

404.2. Adoption, Amendment, Repeal

404.2-1. This law ~~may be~~ was adopted by the [Oneida Business Committee or ~~the~~ Oneida General Tribal Council] by resolution BC-8-31-94-A and effective ten (10) working days after date of adoption ~~amended by resolution~~.

404.2-2. This law may be amended or repealed by the [Oneida Business Committee and/or Oneida General Tribal Council] pursuant to the procedures set out in the ~~Oneida Administrative~~ Legislative Procedures Act ~~by the Oneida Business Committee or the Oneida General Tribal Council, regardless of where the original adoption took place.~~

404.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

~~404.2-4. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this policy are hereby repealed unless specifically re-enacted after adoption of this policy.~~

~~404.2-5. This law shall apply to all Oneida Tribal entities, the Oneida Tribe, members of the Oneida Tribe of Indians of Wisconsin who own land within the exterior boundaries of the Reservation of the Oneida Tribe of Indians, residents and all entities within the Oneida Utility District and is adopted and implemented by authority of the Oneida Tribe of Indians of Wisconsin Constitution.~~

404.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

404.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

404.3. Definitions

404.3-1. All words used herein shall have their ordinary meaning unless specifically defined

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35 within this section.

36 | 404.3-2. Unless otherwise stated within this law, the following specific definitions shall apply:

37 (a) “Municipal water system” means a system for the provision to the public of piped
38 water for human consumption when such system has at least 15 service connections or
39 regularly serves at least 25 year-round residents owned or operated by a city, village,
40 county, town, town sanitary district or public institution, or a privately owned water
41 utility serving any of the above.

42 (b) “Noncomplying” means a well or a pump installation which does not meet the
43 provisions of NR 112, Wis. Admin. Code.

44 (c) “Pump installation” means the pump and related equipment used for withdrawing
45 water from a well including the discharge piping, the underground connections, pitless
46 adapters, pressure tanks, pits, sampling faucets and well seals or caps.

47 (d) “Unsafe” means a well or pump installation which produces water which is
48 bacteriologically contaminated or contaminated with substances exceeding the standards
49 of chs. NR 809 or 140, Wis. Admin. Code, or for which a Health Advisory has been
50 issued.

51 (e) “Unused” means a well or pump installation which has not been in use for three (3)
52 months prior to the date of the adoption of this Law or has not had a functional pumping
53 system for three consecutive months.

54 (f) “Well” means an excavation or opening into the ground made by digging, boring,
55 drilling, driving, or other methods for the purpose of obtaining groundwater for
56 consumption or other use.

57 (g) “Well Abandonment” means the filling and sealing of a well according to the
58 provisions set out herein or by adoption within this code of §NR 112.26, Wis. Admin.
59 Code.

60

61 | **404.4. Abandonment Required**

62 | 404.4-1. All wells located on premises served by a municipal water system or, regardless of
63 location, are unused or of noncomplying construction, shall be abandoned in accordance with the
64 terms of this law and §NR 112.26, Wis. Admin. Code, unless a well operation permit has been
65 obtained from the Oneida Environmental Health [Program and Safety Division](#) within three (3)
66 months of adoption of this law, prior to opening a well after adoption of this law, or a renewal
67 permit was granted within three months of expiration of prior permits.

68

69 | **404.5. Well Operation Permit**

70 | 404.5-1. The Oneida Environmental Health [Program and Safety Division](#) may grant a yearly
71 well operation permit to a private well owner to operate a well for a period not to exceed five (5)
72 years, providing the conditions of this section are met. An owner may request renewal of a well
73 operation permit by submitting information verifying that the conditions of this section are met.

74 | 404.5-2. The following requirements must be met prior to granting a permit

75 (a) A yearly water quality test is performed at the owner’s expense.

76 | (b) The Oneida Environmental Health [Program and Safety Division](#) or its agent, may
77 conduct inspections or have water quality tests conducted to obtain or verify information

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78 necessary for consideration of a permit application, on an annual basis for reverification,
79 or upon request for permit renewal.

80 (c) Permit applications and renewals shall be made on forms provided by the Oneida
81 Environmental Health Program and Safety Division.

82 404.5-3.— The following conditions must be met for issuance or renewal of a well operation
83 permit.

84 (a) The well and pump installation meet or are upgraded to meet the requirements of ch.
85 NR 112, Wis. Admin. Code; and

86 (b) The well construction and pump installation have a history of producing
87 bacteriologically safe water as verified by sampling histories. No exception to this
88 condition may be made for unsafe well, unless the Oneida Environmental Health
89 Program and Safety Division provides the appropriate form for the continued use of the
90 well; and

91 (c) There are no cross-connections between the well and pump installation and the
92 municipal water system; and

93 (d) The proposed use of the well and pump installation will be reviewed on a case by
94 case basis.

95

96 **404.6. Abandonment Procedures**

97 404.6-1.— All wells abandoned under the jurisdiction of the Oneida ~~Tribe of Indians of~~
98 ~~Wisconsin Nation~~ shall be abandoned according the procedures and methods set out herein and
99 supplemented in §NR 112.26, Wis. Admin. Code. Provided that, any notification within the state
100 regulation shall be superseded and integrated as reasonable with the notification procedures
101 herein.

102 404.6-2.— The owner of the well, or the owner's agent, shall notify the Oneida Environmental
103 Health Program and Safety Division at least 48 hours prior to the commencement of any well
104 abandonment activities. The abandonment of the well may be observed by the Oneida
105 Environmental Health Program and Safety Division, or its designated agent.

106 404.6-3.— A well abandonment report will be completed and submitted by the owner's agent, to
107 the Oneida Environmental Health Program and Safety Division within 10 days of the completion
108 of the well abandonment. The well abandonment report form is available from the Oneida
109 Environmental Health Program and Safety Division.

110 404.6-4.— All debris, pump, piping, unsealed liners and any other obstructions which may
111 interfere with sealing operations shall be removed prior to abandonment.

112

113 **404.7. Penalties**

114 404.7-1.— Any well owner or agent violating any provision of this law shall be subject to
115 forfeiture of not less ~~that~~ than \$100 nor more than \$1,000. Each day of violation is a separate
116 forfeiture. Provided that each forfeiture be proven individually.

117 404.7-2.— Failure to comply with this law within ten (10) working days after receiving written
118 notice of this violation, the Oneida ~~Tribe~~ Nation may impose a penalty and cause the well
119 abandonment to be performed at the expense of the well owner.

120 404.7-3.— ~~The Oneida Environmental Health Program is authorized to bring all civil forfeiture~~

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121 ~~hearings before the Oneida Environmental resource Board as the Original Hearing Body.~~
122 ~~Provided that notice and hearing procedures are conducted as directed by the Oneida~~
123 ~~Administrative Procedures Act.~~

124 ~~404.7-4. _~~ It shall be a valid defense to any continuing forfeiture that the well owner has begun
125 procedures to abandon the well and shall be by sworn affidavit that notice has been presented to
126 the Oneida Environmental Health Program of approved well abandonment procedure.

127 ~~404.7-5. Appeal from any final, written, judgment shall be made within five (5) working days of~~
128 ~~notice and may be made by either party.~~

129 ~~404.7-6. No forfeitures accumulate after a civil hearing is begun by filing a request for forfeiture~~
130 ~~with the Environmental Resource Board.~~

131 ~~404.7-7. Forfeiture collected under this law are to forwarded to the Accounts Receivable Office~~
132 ~~for placement in the General Tribal Funds.~~

133 406.7-4. Contested Action Hearings. All citations, penalties, forfeitures, orders and
134 declarations issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial
135 Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30)
136 days after the citation was issued. Persons wishing to contest a citation shall appear at the
137 prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or
138 admit committing the act for which the citation was issued. The Judiciary shall schedule a
139 hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days
140 of the date of the prehearing, for all persons entering a plea contesting the fact that they
141 committed the act for which a citation was issued. In addition to scheduling requested hearings,
142 the Judiciary may also make conditional orders at the prehearing which are effective until the
143 matter is resolved.

144 (a) Community Service. Community service may be substituted for fines at the
145 Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of
146 one (1) hour per ten dollars (\$10.00) of the fine.

147 (b) Allocation of Citation Revenue. All fines and penalties issued by citations are
148 payable to the Environmental Resource Board or its designee, the proceeds of which the
149 Environmental Resource Board shall contribute to the Nation's general fund.

150 (c) Appealing the Decision of the Judiciary Trial Court. Any person wishing to contest
151 the determination of the Judiciary Trial Court may appeal the applicable determination to
152 the Judiciary's Court of Appeals in accordance with the Rules of Appellate Procedure.

153 (d) Pursuing Payment of a Citation. The Environmental Resource Board may pursue
154 payment from parties who have failed to make the required payments through the
155 garnishment process contained in the Garnishment law and/or by attaching a Tribal
156 member's per capita payment pursuant to the Per Capita law.

157
158 **404.8. ___ Conflict with Federal.**

159 404.8-1. ___ Should any part of this law be found to be in conflict with federal requirements which
160 are required in order that the Oneida ~~Tribe of Indians~~Nation receive federal funds, the conflicting
161 section of this law is to be considered inoperative only for the purpose of the particular funding
162 and that particular conflict. Provided that any consideration in regards to federal funding does
163 not undermine the purposes and policies of this law. Such conflict shall not affect the operation

For OBC Consideration (Draft 1) redline to current
2017 07 26

164 of the remainder of this law in its application to those agencies or department directly affected.

~~165~~ |

167

168 Adopted - BC-8-31-94-A

FINANCE ADMINISTRATION
Fiscal Impact Statement



MEMORANDUM

DATE: June 7, 2017

FROM: Rae Skenandore, Project Manager

TO: Larry Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer

RE: **Fiscal Impact of the transfer of the Environmental Resource Board's Hearing Authority to the Oneida Judiciary**

I. Estimated Fiscal Impact Summary

Law: Domestic Animal Hunting, Fishing and Trapping law (HTF) Public Use of Tribal Land (Public Use) Tribal Environmental Response (TERP) Well Abandonment Law (Well Abandonment) All-Terrain Vehicle Law (ATV) Water Resources Ordinance (Water Resources) On-Site Waste Disposal Ordinance (Waste Disposal)	Draft 19 Draft 2 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1
Implementing Agency	Oneida Police Department (OPD) Conservation Environmental Resource Board (ERB) Emergency Management Environmental Health and Safety Division Comprehensive Health Division Oneida Judiciary
Estimated time to comply	January 1, 2018
Estimated Impact	Current Fiscal Year 10 Year Estimate
ERB stipend savings	\$830 \$8,300
Total Estimated Savings	\$830 \$8,300
Revenue and cost considerations	Fee Schedules should be removed from the various Laws
Uncertainties and Unknowns	None

II. Background

A. Legislative History

The Oneida Business Committee created the Environmental Resource Board through Resolution BC-02-22-85-B. GTC Resolution 01-07-13-B established the Oneida Judiciary.

B. Summary of Content

1. The Domestic Animal amendments are being processed separately in order to make further revisions. However, it is included here because there are no additional fiscal impacts due to the amendments.
2. All Laws are being amended to state that the Trial Court is the entity authorized to conduct hearings.
3. Other minor changes, including formatting, have been made to these Laws to comply with drafting style. These changes do not affect the content of these Laws.

C. Methodology and Assumptions

1. A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.
2. Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.
3. The analysis was completed based on the information provided as of the date of this memo.

III. Agency

The hearing authority will simply be transferred from ERB to the Judiciary. Historical hearing stipends paid to the Board were \$750 in 2017, \$1,200 in 2016, and \$700 in 2015. Transferring the hearing authority to the Judiciary would result in an average savings of approximately \$830 annually. The Judiciary does not anticipate any additional costs as this will simply be absorbed into their existing duties. ERB has stated that they expect the transition of the hearing authority to be complete by January 1, 2018

IV. Financial Impact

Approximately \$830 savings annually.

V. Recommendation

Finance does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Consider the adoption of amendments to the Tribal Environmental Response Law

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="Adoption packet"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jennifer Falck, LRO Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chairperson 
DATE: July 26, 2017
RE: Tribal Environmental Response Law Amendments

Please find the following attached backup documentation for your consideration of the Tribal Environmental Response Law Amendments:

1. Resolution: Tribal Environmental Response Law Amendments
2. Statement of Effect: Tribal Environmental Response Law Amendments
3. Tribal Environmental Response Law Amendments: Legislative Analysis
4. Tribal Environmental Response Law Amendments: Clean Draft
5. Tribal Environmental Response Law Amendments: Redline to Current Draft
6. Tribal Environmental Response Law Amendments: Fiscal Impact Statement

Overview

This resolution adopts amendments to the Tribal Environmental Response Law to transfer the Environmental Resource Board's hearing authority to the Judiciary.

In accordance with the Legislative Procedures Act, a public meeting was held regarding this law on June 15, 2017 with a comment period closing on June 29, 2017. There were no comments provided. These amendments will become effective beginning in the new fiscal year on October 1, 2017.

Requested Action

Approve the Resolution: Tribal Environmental Response Law Amendments

BC Resolution _____*Tribal Environmental Response Law Amendments*

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WHEREAS, the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, the Oneida Business Committee originally adopted the Tribal Environmental Response Law through resolution BC-09-12-12-B and thereafter amended it through resolution BC-02-25-15-C; and

WHEREAS, the Amendments to the Law transfer the Environment Resource Board's original hearing body authority and responsibilities to the Oneida Judiciary as part of an effort to standardize and streamline all of the Nation's hearing responsibilities; and

WHEREAS, a public meeting on the proposed Amendments was held on June 15, 2017 in accordance with the Legislative Procedures Act; and

NOW THEREFORE BE IT RESOLVED, that the Tribal Environmental Response Law Amendments are hereby adopted and shall become effective on October 1, 2017.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



Statement of Effect

Tribal Environmental Response Law Amendments

Summary

This Resolution adopts Amendments to the Tribal Environmental Response Law Amendments (the “Law”) which transfer the Environmental Resource Board’s original hearing body authority to the Oneida Judiciary.

Submitted by: Krystal L. John, Staff Attorney, Oneida Law Office

Analysis by the Legislative Reference Office

As stated above, these amendments will transfer the delegation of original hearing body authority from the Environmental Resource Board to the Oneida Judiciary. Such a transfer would implicate the Judiciary law and the Environmental Resource Board’s by-laws.

The transfer of hearing body authority would fit into the Oneida Judiciary’s subject matter jurisdiction according to the Judiciary law based on section 801.5-2, which provides that, “The Trial Court shall have subject matter jurisdiction over cases and controversies arising under the following... (a) Tribal laws which specifically authorize the Trial Court to exercise jurisdiction...” *Judiciary*, 8 O.C. 801 § 801.5-2. These amendments to the Law specifically authorize the Trial Court to exercise jurisdiction based on section 401.10-3. *Contested Action Hearings*, which reads as follows:

All citations, penalties, orders and declarations issued pursuant to this law shall include a prehearing date with the Judiciary Trial Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all persons entering a plea contesting the fact that they committed the act for which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also make conditional orders at the prehearing which are effective until the matter is resolved. ...

(c) Appealing the Decision of the Judiciary Trial Court. Any person wishing to contest the determination of the Judiciary Trial Court may appeal to the Judiciary Court of Appeals in accordance with the Rules of Appellate Procedure. ...

The Environmental Resource Board’s by-laws provide the Board’s duties and responsibilities, among other things. Adoption of this law conflicts with the Board’s by-laws and the by-laws recognize the Environmental Resource Board’s original hearing body authority in section 1-4.b., which reads as follows: “The ERB shall serve as the original hearing body in matters concerning environmental and conservation laws and ordinances promulgated by the Oneida Tribe.” Accordingly, if this resolution is adopted, the Environmental Resource Board’s by-laws would need

to be amended to remove the original hearing body authority from the Board's duties and responsibilities.

A public meeting was held for these Amendments on June 15, 2017 for which the public comment period expired on June 22, 2017 in accordance with the Legislative Procedures Act. There were not any oral or written comments submitted.

Conclusion

Adoption of this Resolution would require the Environmental Resource Board's by-laws to be amended to remove the original hearing body authority from the Board's duties and responsibilities.



Hearing Authority Transfer Legislative Analysis

SECTION 1. BACKGROUND

REQUESTER: LOC	SPONSOR: Tehassi Hill	DRAFTER: Krystal L. John	ANALYST: Candice E. Skenandore
Intent of the Amendments	To further utilize the Judiciary.		
Purpose	To transfer the Environmental Resource Board (ERB) hearing authority to the Judiciary.		
Affected Entities	Trial Court, ERB		
Affected Legislation	Hunting, Fishing and Trapping law, Public Use of Tribal Land, Tribal Environmental Response, Well Abandonment Law, All-Terrain Vehicle Law, Water Resources Ordinance		
Enforcement/Due Process	ERB will no longer hold hearings; hearing will now be conducted by the Trial Court in accordance with the Rules of Civil Procedure.		
Public Meeting	A public meeting was held on June 15, 2017.		

SECTION 2. LEGISLATIVE DEVELOPMENT

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24
- A.** Since 1985, ERB served as the hearing body authority over the Nation’s environmental regulations. On May 2, 1990, the Oneida Business Committee established the Oneida Tribal Judicial System (aka Oneida Appeals Commission) and General Tribal Council reauthorized the Oneida Tribal Judicial System on August 19, 1991 [*See BC Resolution 05-02-90 and GTC Resolution 8-19-91-A*]. The purpose of the Oneida Appeals Commission was to enhance and protect self-governance and sovereignty as well as enhance the separation of powers between the legislative, executive and juridical responsibilities of the Nation. The Oneida Appeals Commission removed the Oneida Business Committee from initial judicial decisions [*See GTC Resolution 8-19-91-A*].
- B.** In 2013, the General Tribal Council changed the structure of the Oneida Tribal Judicial System by creating an Oneida Judiciary comprised of the Tribal Court and a Court of Appeals through the adoption of the Judiciary law. The purpose of the Judiciary is to grant the Trial Court and Court of Appeals expanded subject matter jurisdiction and create a greater role for the use of mediation and/or peacemaking [*See GTC Resolution 01-07-13-B*].
- C.** These proposed amendments will transfer hearing authority from ERB to the Trial Court. The following laws are amended to reflect the transfer of hearing authority:
- Hunting, Fishing and Trapping law (HTF)
 - Public Use of Tribal Land (Public Use)
 - Tribal Environmental Response (TERP)
 - Well Abandonment Law (Well Abandonment)
 - All-Terrain Vehicle Law (ATV)
 - Water Resources Ordinance (Water Resources)
 - On-Site Waste Disposal Ordinance (Waste Disposal)

SECTION 3. CONSULTATION

26 A. ERB and the Trial Court have been consulted in the development of this legislative analysis.
27

28 **SECTION 4. PROCESS**

29 A. These Laws have followed the process set forth in the Legislative Procedures Act (LPA) except that
30 the public meeting was not properly noticed to all managers or directors. The LPA requires the public
31 meeting notice, legislation, legislative analysis and fiscal impact statement, if fiscal impact statement is
32 available, to be electronically provided to all managers or directors a minimum of ten business days
33 before a public meeting is held [*See Legislative Procedures Act, 1 O.C. 109.8-2 (b)*]. The notice and
34 backup documents were provided electronically to all managers or directors on Tuesday, June 13, 2017;
35 the public meeting was held Thursday, June 15, 2017. The public meeting was properly noticed in the
36 Kalihwisaks and was made public on the Oneida Register at least ten business days prior to the public
37 meeting as required by the LPA [*See Legislative Procedures Act, 1 O.C. 8-2 (a & b)*]. The LOC
38 extended the public comment period for these laws for an additional five business days, ending on
39 Thursday, June 29, 2017.

40 B. A work meeting with ERB was held on Wednesday, May 17, 2017 and a work meeting with ERB and
41 the Judiciary was held on Monday, June 12, 2017.
42

43 **SECTION 5. CONTENTS OF THE LEGISLATION**

44 A. The identified laws in Section 2.C of this analysis have been amended to state that the Trial Court is
45 the entity authorized to conduct hearings.
46

47 **SECTION 6. INTENT**

48 A. The intent of these amendments is to further utilize the Oneida Judiciary. The LOC has already
49 decided to transfer hearing authority from identified entities to the Judiciary. The majority of the
50 Oneida Land Commission's and some of the Trust Enrollments Committee's hearing authority has
51 already transferred to the Judiciary. Because the LOC is currently working on amendments the
52 Domestic Animals law in which ERB has hearing authority, it was decided to amend all laws which
53 grant ERB hearing authority and transfer that authority to the Judiciary.
54

55 **SECTION 7. EFFECT ON EXISTING LEGISLATION**

56 A. These amendments do not conflict with other laws or policies of the Nation.
57

58 **SECTION 8. OTHER CONSIDERATIONS**

59 A. The following table shows the type and approximate number of hearings ERB has held since 2012.
60 Included are hearings that pertain to Domestic Animals violations; however, the Domestic Animal
61 amendments are being processed separately in order to make further revisions. In total, ERB has held
62 approximately 69 hearings since 2012.
63

64

	ATV	HFT	Waste Disposal	Public Use	TERP	Water Resources	Well Abandonment	Domestic Animal	TOTAL
2012	0	1	0	0	0	0	0	1	2
2013	0	5	0	0	0	0	0	0	5
2014	0	14	0	0	0	0	0	3	17
2015	0	0	0	1	0	0	0	6	7
2016	0	11	0	2	0	0	0	19	32
2017	0	2	0	0	0	0	0	4	6
TOTAL	0	33	0	3	0	0	0	33	69

65 **B.** Minor changes, including formatting, have been made to these laws to comply with drafting style.

66 These changes do not affect the content of these laws.

67 **C.** Please refer to the fiscal impact statement for any financial impacts.

68

69 SECTION 9. ADDITIONAL AMENDMENTS

70 **A. *Hunting, Fishing, and Trapping law (Law)*.** In additions to the amendments which transfer ERB's
 71 hearing authority to the Judiciary, additional amendments were made to the Hunting, Fishing, and
 72 Trapping law. These amendments include revising section 406.4-3 which states that this Law does
 73 not negate the jurisdiction of the State of Wisconsin in instances that involve non-member Indians
 74 and non-Indians. This means that non-member Indians and non-Indians hunting, fishing and trapping
 75 on land owned by the Nation must adhere to the Nation's license, permit and tag requirements but
 76 may also be subject to State requirements. In addition, license and permit holders cannot utilize
 77 hunting, fishing, or trapping privileges within the Reservation using a State license that would
 78 provide greater privileges than those afforded in this Law and any applicable rules [*See Hunting,*
 79 *Fishing and Trapping, 4 O.C. 406.4-3*].

80

Title 4. Environment and Natural Resources—Chapter 401
TRIBAL ENVIRONMENTAL RESPONSE
Latihw<tsyahal#-tu kayanl^hsla>
They clean up the earth laws

401.1. Purpose and Policy 401.2. Adoption, Amendment, Conflicts 401.3. Definitions 401.4. Jurisdiction 401.5. Tribal Environmental Response Program (TERP) 401.6. Environmental Quality Standards	401.7. Discharge of Hazardous Substances 401.8. Remedial Actions 401.9. Case Closure or No Further Action 401.10. Enforcement and Penalties 401.11. Appeals
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- 1 **401.1. Purpose and Policy**
- 2 401.1-1. The purpose of this law is to:
- 3 (a) regulate the identification, investigation and remediation of discharges of hazardous
- 4 substances to the environment;
- 5 (b) identify sites where the discharge of a hazardous substance into the environment has
- 6 occurred; and
- 7 (c) eliminate contamination from and control the threat of, or actual discharge of
- 8 hazardous substances.
- 9 401.1-2. It is the policy of the Nation to:
- 10 (a) respond to discharges of hazardous substances and environmental contamination
- 11 concerns; and
- 12 (b) ensure remedial action is taken to redevelop contaminated lands and maintain the
- 13 health and welfare of the environment.
- 14 **401.2. Adoption, Amendment, Conflicts**
- 15 401.2-1. This law is adopted by the Oneida Business Committee by resolution BC-09-12-12-B
- 16 and amended by resolution BC-02-25-15-C.
- 17 401.2-2. This law may be amended pursuant to the procedures set out in Tribal law by the
- 18 Oneida Business Committee or the Oneida General Tribal Council.
- 19 401.2-3. Should a provision of this law or the application thereof to any person or
- 20 circumstances be held as invalid, such invalidity shall not affect other provisions of this law
- 21 which are considered to have legal force without the invalid portions.
- 22 401.2-4. In the event of a conflict between a provision of this law and a provision of another
- 23 law, the provisions of this law shall control. Provided that, nothing in this law is intended to
- 24 repeal or modify any existing law, policy, regulation, rule, resolution, or motion.
- 25 401.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
- 26 **401.3. Definitions**
- 27 401.3-1. This section shall govern the definitions of words and phrases used within this law.
- 28 All words not defined herein shall be used in their ordinary and everyday sense.
- 29 (a) “All Appropriate Inquiries” means the process of evaluating a property’s
- 30 environmental conditions and assessing the likelihood of any contamination in
- 31 compliance with the All Appropriate Inquiries Final Rule at 40 CFR 312.
- 32 (b) “Contamination” or “contaminated” means the environment has been affected by a
- 33 hazardous substance to the point that remedial action is necessary to restore the
- 34 environment.

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- 35 (c) “Discharge” means, but is not limited to, spilling, leaking, pumping, pouring,
36 emitting, emptying, releasing or dumping.
- 37 (d) “Dispose” or “disposal” means the deposit, injection, or placing of any hazardous
38 substance in a manner which may permit the substance to be discharged to the
39 environment.
- 40 (e) “Free product” means a hazardous substance that is present in the environment as a
41 floating or sinking non-aqueous phase liquid.
- 42 (f) “Groundwater” means any water contained beneath the ground surface.
- 43 (g) “Hazardous substance” means any substance or combination of substances, including
44 any waste of a solid, semi-solid, liquid or gaseous form, which may cause or significantly
45 contribute to an increase in mortality or serious irreversible or incapacitating reversible
46 illness, or which may pose a substantial present or potential hazard to human health or the
47 environment because of its quantity, concentration or physical, chemical or infectious
48 characteristics. This term includes, but is not limited to:
- 49 (1) a substance defined in the Comprehensive Environmental Response,
50 Compensation and Liability Act of 1980, 42 USC §9601 as amended, as a
51 hazardous substance.
- 52 (2) those substances which are toxic, corrosive, flammable, irritants, strong
53 sensitizers or explosives.
- 54 (3) petroleum, including crude oil or any fraction thereof that is liquid at standard
55 conditions of temperature and pressure.
- 56 (h) “Immediate action” means a remedial action that is taken within a short period of
57 time after the discharge of a hazardous substance or contamination occurs, or after the
58 discovery of the discharge or contamination.
- 59 (j) “Judiciary” means the judicial system that was established by Oneida General Tribal
60 Council resolution GTC-01-07-13-B to administer the judicial authorities and
61 responsibilities of the Nation.
- 62 (k) “Operator” means any person who operates a site.
- 63 (l) “Owner” means any person who owns or who receives direct or indirect consideration
64 from the operation of a site regardless of whether the site remains in operation and
65 regardless of whether the person owns or receives consideration at the time
66 contamination occurs.
- 67 (m) “Person” means an individual, owner, operator, entity, corporation, partnership,
68 association, municipality, interstate agency, state agency or federal agency.
- 69 (n) “Practicable” means remedial action is capable of being implemented, taking into
70 account:
- 71 (1) The technical feasibility of the remedial action, considering its long-term
72 effectiveness, short-term effectiveness, implementability and the time it will take
73 until restoration is achieved; and
- 74 (2) The economic feasibility of the remedial action, considering the cost of the
75 remedial action compared to its technical feasibility.
- 76 (o) “Registered pesticide” means a pesticide registered or exempted by the federal
77 Environmental Protection Agency’s Office of Pesticide Programs.
- 78 (p) “Remedial action” means any action taken to control, minimize or eliminate the
79 discharge of a hazardous substance at or contamination of a site and any action taken to
80 restore the environment to the extent practicable.
- 81 (q) “Responsible party” means any person who, under this law, is required to:

82 (1) take action to prevent or abate contamination, a threat of contamination, the
83 discharge of a hazardous substance or threat of a discharge; or

84 (2) reimburse a Tribal entity for the costs incurred by the entity to take action to
85 prevent or abate contamination or threat of contamination or the discharge of a
86 hazardous substance or threat of a discharge.

87 (r) “Restore” or “restoration” means to return the environment to its original condition
88 before the discharge of a hazardous substance or contamination of the site occurred.

89 (s) “Site” means any area where contamination has occurred or is suspected of occurring,
90 including a place of business that handles, transports or stores hazardous substances and
91 is required to track such materials.

92 (t) “Tribal entity” means a board, committee, commission, department, division, or
93 agency of the Nation.

94 **401.4. Jurisdiction**

95 401.4-1. *Personal Jurisdiction.* This law shall apply to:

96 (a) all Oneida Tribal members, Tribal entities, Tribal corporations and members of other
97 federally recognized tribes;

98 (b) individuals and businesses leasing, occupying or otherwise using Tribal fee land and
99 all Tribal trust lands; and

100 (c) individuals who have consented to the jurisdiction of the Nation or as otherwise
101 consistent with federal law. For purposes of this subsection, an individual shall have
102 consented to the jurisdiction of the Nation:

103 (1) By entering into a consensual relationship with the Nation, Tribal entities,
104 Tribal corporations, or Tribal members, including but not limited to contracts or
105 other agreements; or

106 (2) By other facts which manifest an intent to consent to the authority of the
107 Nation, including failure to raise an objection to the exercise of personal
108 jurisdiction in a timely manner.

109 401.4-2. *Territorial Jurisdiction.* This law extends to all land within the exterior boundaries of
110 the Reservation of the Nation, as established pursuant to the 1838 Treaty with the Oneida, 7 Stat.
111 566, any lands added thereto pursuant to federal law and all lands held in trust for the Nation
112 within the State of Wisconsin.

113 **401.5. Tribal Environmental Response Program (TERP)**

114 401.5-1. The Environmental Health and Safety Division (Division) shall create a Tribal
115 Environmental Response Program (TERP). The purpose of the TERP shall be to address the
116 discharge or potential discharge of a hazardous substance that has resulted in or may result in
117 contamination of the environment.

118 401.5-2. Under the TERP, the Division shall:

119 (a) provide opportunities for public participation for the identification, restoration and
120 reuse of contaminated sites.

121 (b) conduct and/or oversee assessments and investigations of sites with contamination
122 concerns.

123 (c) identify potentially responsible parties to clean up contaminated sites.

124 (d) require appropriate remedial action be taken when contaminated sites are identified
125 and develop a plan or ensure a plan is developed for the undertaking of those remedial
126 actions.

127 (e) oversee and enforce required remedial actions.

128 (f) develop mechanisms for the approval, certification, and verification of remedial
129 actions taken at a site.

130 (g) maintain a public record of remedial actions conducted at a contaminated site.

131 401.5-3. *Issuance of Administrative Orders.* The Division shall issue administrative orders, as
132 necessary, when the discharge of a hazardous substance occurs, or when contamination, or the
133 threat of contamination, exists. Before issuing an administrative order, the Division shall consult
134 with other Tribal entities having expertise in the subject matter of the order. Administrative
135 orders may include:

136 (a) orders to prevent the discharge of a hazardous substance.

137 (b) orders to allow the investigation of a site it has reason to believe is contaminated or is
138 under threat of contamination.

139 (c) orders to require a responsible party to take action to prevent and/or abate
140 contamination.

141 401.5-4. *Emergency Situations.* Chapter 302 of the Oneida Code of Laws, Emergency
142 Management and Homeland Security, shall govern the response to the discharge of a hazardous
143 substance which results in the proclamation of an emergency.

144 **401.6. Environmental Quality Standards**

145 401.6-1. The Division shall adopt and revise, as necessary, standards for environmental quality
146 that are protective of public health and the environment, recognizing that different standards may
147 be required, depending on the designated uses of the land and groundwater.

148 401.6-2. Before adopting or revising environmental quality standards, the Division shall
149 publish notice in two (2) consecutive issues of the Kalihwisaks on the standards that are under
150 consideration for adoption or revision.

151 (a) The notice shall contain a deadline for comments to be received from any person.

152 (b) The Division shall review and consider comments received before approving the new
153 or revised standards.

154 401.6-3. Environmental quality standards adopted by the Division shall become effective upon
155 Oneida Business Committee approval, except those standards that are consistent with federal
156 standards shall be effective upon approval by the Division.

157 **401.7. Discharge of Hazardous Substances**

158 401.7-1. *Notification of Discharge.* Unless exempted from notifying the Division under 401.7-
159 10, the following individuals shall notify the Division immediately of the discharge of a
160 hazardous substance or threat of such discharge:

161 (a) Any person who possesses or controls a hazardous substance which is discharged;

162 (b) Any person who causes the discharge of a hazardous substance; and

163 (c) Any person who has professional knowledge that the discharge of a hazardous
164 substance has occurred at a site, or there is a threat of such discharge.

165 401.7-2. *Investigation of Discharge.* When the Division is notified of or becomes aware of the
166 discharge of a hazardous substance, or threat of such discharge, it shall identify any responsible
167 parties and issue an administrative order for the responsible parties to have an investigation
168 conducted of the site. The Division may also issue an administrative order requiring the
169 responsible party take action to abate and/or prevent the discharge. The Division may specify
170 any necessary preventative measures or remedial actions in the administrative order.

171 401.7-3. *Determination of Contamination.* After being issued an administrative order for
172 an investigation, the responsible parties shall have an initial assessment conducted to
173 determine whether the discharge of a hazardous substance has occurred and whether any

174 discharge has caused contamination. The initial assessment shall include sampling and/or
175 testing of the site where the discharge of a hazardous substance has occurred.

176 (a) Evidence that indicates contamination of a site has occurred, or may have
177 occurred includes, but is not limited to:

178 (1) visible soil contamination;

179 (2) presence of free product or vapors in soils, basements, sewers or utility
180 lines, surface water or groundwater; and

181 (3) reports, environmental assessments or routinely gathered monitoring data
182 that indicates contamination has occurred or may have occurred.

183 (b) Groundwater samples shall be collected for analysis and evaluation to determine
184 whether the groundwater poses any public health and welfare concerns.

185 (c) Whether contamination exists shall be based on the level of contamination as
186 compared to environmental quality standards adopted by the Nation.

187 401.7-4. The Division shall evaluate the harmfulness of the discharge of a hazardous substance
188 based on the initial assessment and shall:

189 (a) publish the results of the initial assessment, along with a notice that the Division will
190 accept comments on the results for at least thirty (30) days after the initial publication, in
191 two (2) consecutive issues of the Kalihwisaks; and

192 (b) mail the results of the initial assessment, along with a notice that the Division will
193 accept comments on the results for at least thirty (30) days after the initial publication of
194 the results in the Kalihwisaks, to all owners of property located within one thousand two
195 hundred (1,200) feet of the outer boundaries of the property that is the subject of the
196 initial assessment.

197 401.7-5. The Division shall accept comments on the results of the initial assessment for at least
198 thirty (30) days after the initial publication of the results in the Kalihwisaks. The Division shall
199 compile, review and respond to all comments. Responses will be recorded and published in a
200 document available to the public.

201 401.7-6. A person who possesses or controls a hazardous substance which is discharged or
202 causes the contamination of a site shall take remedial action.

203 401.7-7. A person who voluntarily assumes responsibility for performance of, or payment of,
204 remedial actions in accordance with a plan that has been approved through the TERP, shall not
205 be subject to enforcement actions for the contamination if he or she complies with the plan.

206 401.7-8. Except as provided in 401.7-10, the following persons are responsible parties:

207 (a) The current owner and operator of the site;

208 (b) Any owner or operator of the site at the time the discharge or contamination occurred;

209 (c) Any person who arranged for the disposal or treatment of the hazardous substance, or
210 arranged for the transportation of the hazardous substance for disposal or treatment;

211 (d) Any person who transports the hazardous substance and selects the disposal site; and

212 (e) Any person who, by any act or omission, caused or contributed to the discharge or
213 contamination.

214 401.7-9. *Exemptions.* The following persons are not “responsible parties” under this law:

215 (a) Any person discharging in accordance with a permit or program approved under
216 federal or Tribal law.

217 (b) Law enforcement officers and members of a fire department using hazardous
218 substances in carrying out their responsibilities to protect public health, safety and
219 welfare. However, these individuals shall notify the Division of any discharges of a
220 hazardous substance occurring in the performance of their duties.

- 221 (c) Any person applying a registered pesticide according to the label instructions, or
222 applying a fertilizer at or below normal and beneficial agronomic rates. These
223 individuals are also exempted from the notification and penalty requirements of this law.
224 (d) Any person who can establish that the discharge or threatened discharge of a
225 hazardous substance for which the person would be otherwise responsible was caused
226 solely by:
- 227 (1) An act of nature;
 - 228 (2) An act of war; or
 - 229 (3) An act or omission of a third party, including but not limited to a trespasser,
230 other than:
 - 231 (A) An employee or agent of the person asserting the defense; or
 - 232 (B) Any person whose act or omission occurs in connection with a
233 contractual relationship existing, directly or indirectly, with the person
234 asserting the defense.
 - 235 (e) Any person who is an owner, past owner, or purchaser of property and who can
236 establish by a preponderance of the evidence that at the time the property was acquired
237 by the person, the person had no knowledge or reason to know that the property was
238 contaminated, or that a hazardous substance was discharged or disposed of on, in or at the
239 property.
 - 240 (1) To establish that a person had no reason to know what the person was
241 undertaking at the time of acquisition, All Appropriate Inquiries shall be taken
242 into the previous ownership and uses of the property.
 - 243 (f) Any person who purchases property after January 11, 2002 with knowledge that it is
244 contaminated if:
 - 245 (1) the person did not cause the contamination on the property;
 - 246 (2) the person establishes that all disposal of hazardous substances occurred
247 before the person acquired the property;
 - 248 (3) the person makes All Appropriate Inquiries into previous ownership and uses
249 of the property prior to acquiring the property; and
 - 250 (4) the person is not affiliated with a party liable for any contamination.
- 251 401.7-10. Where there is an unresponsive or unknown responsible party, the Division may refer
252 the site to the appropriate outside agency to retain contractors or consultants, and take other
253 necessary actions to conduct remedial action or have remedial action conducted at a site.

254 **401.8. Remedial Actions**

- 255 401.8-1. A responsible party shall take immediate action to halt the discharge of a hazardous
256 substance and to minimize the harmful effects of the discharge.
- 257 401.8-2. If, after the initial assessment, it is determined that the discharge may cause
258 contamination or has caused contamination, the Division shall issue an administrative order to
259 the responsible party or parties to take remedial action or have remedial action conducted on the
260 site.
- 261 401.8-3. The Division shall determine the appropriate remedial actions, including the time
262 frame, to be taken in the event a site is contaminated. Remedial actions may include:
- 263 (a) the replacement and/or removal of injured plant and animal life or contaminated soil.
 - 264 (b) the treatment of contaminated soils and/or surface and/or groundwater.
 - 265 (c) adequate storage, handling and disposal methods to prevent further and/or future
266 discharges and contamination from occurring.
 - 267 (d) the replacement or repair of faulty equipment.

268 (e) other remedial actions that restore the environment and/or protect the environment
269 from the contamination, as determined by the Division.

270 401.8-4. Where it is determined by the Division that immediate remedial action is not being
271 taken, but is necessary to protect the public health, safety or welfare or the environment, the
272 Division may conduct remedial action or have remedial action conducted. Costs of any such
273 action may be recovered from any or all responsible parties.

274 401.8-5. In addition to the requirements of this law, the Division shall comply with all
275 applicable federal laws when the discharge or threat of a discharge of a hazardous substance
276 occurs.

277 401.8-6. Each responsible party is strictly liable, jointly and severally, for all remedial action
278 costs and for all damages resulting from the discharge or threatened discharge of a hazardous
279 substance.

280 **401.9. Case Closure or No Further Action**

281 401.9-1. The Division may close a case concerning a site or verify that no further action is
282 necessary, upon compliance with the applicable requirements of this law and any administrative
283 orders issued by the Division, including the completion of remedial actions. The Division shall
284 conduct investigations and inspections to ensure compliance with any administrative order it has
285 issued.

286 401.9-2. Sampling shall be conducted at the completion of the remedial action when:

287 (a) The hazardous substance discharge is in contact with groundwater.

288 (b) The amount, identity or duration of the contamination is unknown.

289 (c) Other site conditions indicate that sampling is necessary to confirm the adequacy of
290 the remedial action.

291 401.9-3. The Division may require additional remedial actions, including monitoring, for any
292 site, even those cases that have been closed by the Division, if information regarding site
293 conditions indicates that contamination on or from the site poses a threat to public health, safety
294 or welfare or the environment.

295 401.9-4. If additional remedial action is required for a previously closed case, the Division:

296 (a) Shall indicate in writing to the responsible parties that additional remedial action is
297 needed at the site and provide the responsible parties with information regarding the
298 nature of the problem and type of remedial action that is needed.

299 (b) May require the responsible parties to achieve compliance with the Nation's public
300 health and environmental laws, within a time period established by the Division.

301 **401.10. Violations, Enforcement and Appeals**

302 401.10-1. *Compliance Orders.* If, after issuing an administrative order, the Division determines
303 that a violation of the administrative order exists, it shall issue a compliance order which requires
304 the responsible parties to:

305 (a) Take remedial action to prevent or abate the discharge of a hazardous substance;
306 and/or

307 (b) Allow the investigation of a site believed to be contaminated or under threat of
308 contamination.

309 401.10-2. *Penalty Schedule.* The Environmental Resource Board is delegated rulemaking
310 authority to adopt a penalty schedule, upon recommendation of the Division, for violations of
311 this law. Any person who does not comply with a compliance order issued by the Division may
312 receive a penalty in accordance with the fine schedule. A separate offense shall be deemed
313 committed on each day during or on which a violation occurs or continues.

314 (a) Any order issued pursuant to this law that is not complied with may be physically
315 enforced by the Division at the Owner's expense.

316 (b) Any person who is a lessee of the Nation who violates any provision of this law or
317 any compliance order issued by the Division shall have said case referred to the Division
318 of Land Management to consider potential lease violations.

319 401.10-3. *Contested Action Hearings.* All citations, penalties, orders and declarations issued
320 pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which shall be
321 set for the next scheduled monthly prehearing date that is at least thirty (30) days after the
322 citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which
323 time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act
324 for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as
325 possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing,
326 for all persons entering a plea contesting the fact that they committed the act for which a citation
327 was issued. In addition to scheduling requested hearings, the Judiciary may also make
328 conditional orders at the prehearing which are effective until the matter is resolved.

329 (a) *Community Service.* Community service may be substituted for fines at the
330 Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of
331 one (1) hour per ten dollars (\$10.00) of the fine.

332 (b) *Allocation of Citation Revenue.* All fines and penalties issued by citations are
333 payable to the Environmental Resource Board or its designee, the proceeds of which the
334 Environmental Resource Board shall contribute to the Nation's general fund.

335 (c) *Appealing the Decision of the Judiciary Trial Court.* Any person wishing to contest
336 the determination of the Judiciary Trial Court may appeal the applicable determination to
337 the Judiciary's Court of Appeals in accordance with the Rules of Appellate Procedure.

338 (d) *Pursuing Payment of a Citation.* The Environmental Resource Board may pursue
339 payment from parties who have failed to make the required payments through the
340 garnishment process contained in the Garnishment law and/or by attaching a Tribal
341 member's per capita payment pursuant to the Per Capita law.

342
343 *End.*

345 Adopted – BC-09-12-12-B

346 Amended – BC-02-25-15-C

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Title 4. Environment and Natural Resources—Chapter 401
TRIBAL ENVIRONMENTAL RESPONSE
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They clean up the earth laws

401.1. Purpose and Policy 401.2. Adoption, Amendment, Conflicts 401.3. Definitions 401.4. Jurisdiction 401.5. Tribal Environmental Response Program (TERP) 401.6. Environmental Quality Standards	401.7. Discharge of Hazardous Substances 401.8. Remedial Actions 401.9. Case Closure or No Further Action 401.10. Enforcement and Penalties 401.11. Appeals
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401.1. Purpose and Policy

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- (a) regulate the identification, investigation and remediation of discharges of hazardous substances to the environment;
- (b) identify sites where the discharge of a hazardous substance into the environment has occurred; and
- (c) eliminate contamination from and control the threat of, or actual discharge of hazardous substances.

401.1-2. It is the policy of the ~~Tribe~~Nation to:

- (a) respond to discharges of hazardous substances and environmental contamination concerns; and
- (b) ensure remedial action is taken to redevelop contaminated lands and maintain the health and welfare of the environment.

401.2. Adoption, Amendment, Conflicts

401.2-1. This law is adopted by the Oneida Business Committee by resolution BC-09-12-12-B and amended by resolution BC-02-25-15-C.

401.2-2. This law may be amended pursuant to the procedures set out in Tribal law by the Oneida Business Committee or the Oneida General Tribal Council.

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69 | association, municipality, interstate agency, state agency or federal agency.
- 70 | (n)–___ “Practicable” means remedial action is capable of being implemented, taking into
71 | account:
- 72 | (1)–___ The technical feasibility of the remedial action, considering its long-term
73 | effectiveness, short-term effectiveness, implementability and the time it will take
74 | until restoration is achieved; and
- 75 | (2)–___ The economic feasibility of the remedial action, considering the cost of the
76 | remedial action compared to its technical feasibility.
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83 | (1) ~~___~~ take action to prevent or abate contamination, a threat of contamination,
84 | the discharge of a hazardous substance or threat of a discharge; or

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86 | to prevent or abate contamination or threat of contamination or the discharge of a
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94 | ~~agency of the Oneida Tribe of Indians of Wisconsin Nation.~~

95 | **401.4. ___ Jurisdiction**

96 | 401.4-1. ~~___~~ *Personal Jurisdiction*. This law shall apply to:

97 | (a) ~~___~~ all Oneida Tribal members, Tribal entities, Tribal corporations and members of
98 | other federally recognized tribes;

99 | (b) ~~___~~ individuals and businesses leasing, occupying or otherwise using Tribal fee land
100 | and all Tribal trust lands; and

101 | (c) ~~___~~ individuals who have consented to the jurisdiction of the TribeNation or as
102 | otherwise consistent with federal law. For purposes of this subsection, an individual shall
103 | have consented to the jurisdiction of the TribeNation:

104 | (1) ~~___~~ By entering into a consensual relationship with the TribeNation, Tribal
105 | entities, Tribal corporations, or Tribal members, including but not limited to
106 | contracts or other agreements; or

107 | (2) ~~___~~ By other facts which manifest an intent to consent to the authority of the
108 | TribeNation, including failure to raise an objection to the exercise of personal
109 | jurisdiction in a timely manner.

110 | 401.4-2. *Territorial Jurisdiction*. This law extends to all land within the exterior boundaries of
111 | the Reservation of the TribeNation, as established pursuant to the 1838 Treaty with the Oneida, 7
112 | Stat. 566, any lands added thereto pursuant to federal law and all lands held in trust for the
113 | TribeNation within the State of Wisconsin.

114 | **401.5. ___ Tribal Environmental Response Program (TERP)**

115 | 401.5-1. ~~___~~ The Environmental Health and Safety Division (Division) shall create a Tribal
116 | Environmental Response Program (TERP). The purpose of the TERP shall be to address the
117 | discharge or potential discharge of a hazardous substance that has resulted in or may result in
118 | contamination of the environment.

119 | 401.5-2. ~~___~~ Under the TERP, the Division shall:

120 | (a) ~~___~~ provide opportunities for public participation for the identification, restoration and
121 | reuse of contaminated sites.

122 | (b) ~~___~~ conduct and/or oversee assessments and investigations of sites with contamination
123 | concerns.

124 | (c) ~~___~~ identify potentially responsible parties to clean up contaminated sites.

125 | (d) ~~___~~ require appropriate remedial action be taken when contaminated sites are
126 | identified and develop a plan or ensure a plan is developed for the undertaking of those
127 | remedial actions.

128 | (e) ~~___~~ oversee and enforce required remedial actions.

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129 | (f)–develop mechanisms for the approval, certification, and verification of remedial
130 | actions taken at a site.

131 | (g)–__maintain a public record of remedial actions conducted at a contaminated site.

132 | 401.5-3.– *Issuance of Administrative Orders*. The Division shall issue administrative orders, as
133 | necessary, when the discharge of a hazardous substance occurs, or when contamination, or the
134 | threat of contamination, exists. Before issuing an administrative order, the Division shall consult
135 | with other Tribal entities having expertise in the subject matter of the order. Administrative
136 | orders may include:

137 | (a)–__orders to prevent the discharge of a hazardous substance.

138 | (b)–__orders to allow the investigation of a site it has reason to believe is contaminated
139 | or is under threat of contamination.

140 | (c)–__orders to require a responsible party to take action to prevent and/or abate
141 | contamination.

142 | 401.5-4.– *Emergency Situations*. Chapter ~~35~~302 of the Oneida Code of Laws, Emergency
143 | Management and Homeland Security, shall govern the response to the discharge of a hazardous
144 | substance which results in the proclamation of an emergency.

145 | **401.6. __Environmental Quality Standards**

146 | 401.6-1. __The Division shall adopt and revise, as necessary, standards for environmental quality
147 | that are protective of public health and the environment, recognizing that different standards may
148 | be required, depending on the designated uses of the land and groundwater.

149 | 401.6-2. __Before adopting or revising environmental quality standards, the Division shall
150 | publish notice in two (2) consecutive issues of the Kalihwisaks on the standards that are under
151 | consideration for adoption or revision.

152 | ~~(1)~~(a) The notice shall contain a deadline for comments to be received from any person.

153 | ~~(2)~~(b) The Division shall review and consider comments received before approving the
154 | new or revised standards.

155 | 401.6-3.– Environmental quality standards adopted by the Division shall become effective upon
156 | Oneida Business Committee approval, except those standards that are consistent with federal
157 | standards shall be effective upon approval by the Division.

158 | **401.7. __Discharge of Hazardous Substances**

159 | 401.7-1. *Notification of Discharge*. Unless exempted from notifying the Division under 401.7-
160 | 10, the following individuals shall notify the Division immediately of the discharge of a
161 | hazardous substance or threat of such discharge:

162 | (a)–__Any person who possesses or controls a hazardous substance which is discharged;

163 | (b)–__Any person who causes the discharge of a hazardous substance; and

164 | (c)–__Any person who has professional knowledge that the discharge of a hazardous
165 | substance has occurred at a site, or there is a threat of such discharge.

166 | 401.7-2.– *Investigation of Discharge*. When the Division is notified of or becomes aware of the
167 | discharge of a hazardous substance, or threat of such discharge, it shall identify any responsible
168 | parties and issue an administrative order for the responsible parties to have an investigation
169 | conducted of the site. The Division may also issue an administrative order requiring the
170 | responsible party take action to abate and/or prevent the discharge. The Division may specify
171 | any necessary preventative measures or remedial actions in the administrative order.

172 | 401.7-3.– *Determination of Contamination*. After being issued an administrative order for
173 | an investigation, the responsible parties shall have an initial assessment conducted to
174 | determine whether the discharge of a hazardous substance has occurred and whether any

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175 discharge has caused contamination. The initial assessment shall include sampling and/or
176 testing of the site where the discharge of a hazardous substance has occurred.

177 | (a) ~~___~~ Evidence that indicates contamination of a site has occurred, or may have
178 | occurred includes, but is not limited to:

179 | (1) ~~___~~ visible soil contamination;

180 | (2) ~~___~~ presence of free product or vapors in soils, basements, sewers or utility
181 | lines, surface water or groundwater; and

182 | (3) ~~___~~ reports, environmental assessments or routinely gathered monitoring
183 | data that indicates contamination has occurred or may have occurred.

184 | (b) ~~___~~ Groundwater samples shall be collected for analysis and evaluation to determine
185 | whether the groundwater poses any public health and welfare concerns.

186 | (c) ~~___~~ Whether contamination exists shall be based on the level of contamination as
187 | compared to ~~Tribally adopted~~ environmental quality standards adopted by the Nation.

188 | 401.7-4. ~~___~~ The Division shall evaluate the harmfulness of the discharge of a hazardous substance
189 | based on the initial assessment and shall:

190 | (a) ~~___~~ publish the results of the initial assessment, along with a notice that the Division
191 | will accept comments on the results for at least thirty (30) days after the initial
192 | publication, in two (2) consecutive issues of the Kalihwisaks; and

193 | (b) ~~___~~ mail the results of the initial assessment, along with a notice that the Division will
194 | accept comments on the results for at least thirty (30) days after the initial publication of
195 | the results in the Kalihwisaks, to all owners of property located within one thousand two
196 | hundred (1,200) feet of the outer boundaries of the property that is the subject of the
197 | initial assessment.

198 | 401.7-5. ~~___~~ The Division shall accept comments on the results of the initial assessment for at least
199 | thirty (30) days after the initial publication of the results in the Kalihwisaks. The Division shall
200 | compile, review and respond to all comments. Responses will be recorded and published in a
201 | document available to the public.

202 | 401.7-6. ~~___~~ A person who possesses or controls a hazardous substance which is discharged or
203 | causes the contamination of a site shall take remedial action.

204 | 401.7-7. ~~___~~ A person who voluntarily assumes responsibility for performance of, or payment of,
205 | remedial actions in accordance with a plan that has been approved through the TERP, shall not
206 | be subject to enforcement actions for the contamination if he or she complies with the plan.

207 | 401.7-8. ~~___~~ Except as provided in 401.7-10, the following persons are responsible parties:

208 | (a) ~~___~~ The current owner and operator of the site;

209 | (b) ~~___~~ Any owner or operator of the site at the time the discharge or contamination
210 | occurred;

211 | (c) ~~___~~ Any person who arranged for the disposal or treatment of the hazardous
212 | substance, or arranged for the transportation of the hazardous substance for disposal or
213 | treatment;

214 | (d) ~~___~~ Any person who transports the hazardous substance and selects the disposal site;
215 | and

216 | (e) ~~___~~ Any person who, by any act or omission, caused or contributed to the discharge or
217 | contamination.

218 | 401.7-9. ~~___~~ *Exemptions*. The following persons are not “responsible parties” under this law:

219 | (a) ~~___~~ Any person discharging in accordance with a permit or program approved under
220 | federal or Tribal law.

221 | (b) ~~___~~ Law enforcement officers and members of a fire department using hazardous
222 | substances in carrying out their responsibilities to protect public health, safety and

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223 welfare. However, these individuals shall notify the Division of any discharges of a
224 hazardous substance occurring in the performance of their duties.

225 | (c) ~~___~~ Any person applying a registered pesticide according to the label instructions, or
226 | applying a fertilizer at or below normal and beneficial agronomic rates. These
227 | individuals are also exempted from the notification and penalty requirements of this law.

228 | (d) ~~___~~ Any person who can establish that the discharge or threatened discharge of a
229 | hazardous substance for which the person would be otherwise responsible was caused
230 | solely by:

231 | (1) ~~___~~ An act of nature;

232 | (2) ~~___~~ An act of war; or

233 | (3) ~~___~~ An act or omission of a third party, including but not limited to a
234 | trespasser, other than:

235 | (A) ~~___~~ An employee or agent of the person asserting the defense; or

236 | (B) ~~___~~ Any person whose act or omission occurs in connection with a
237 | contractual relationship existing, directly or indirectly, with the person
238 | asserting the defense.

239 | (e) ~~___~~ Any person who is an owner, past owner, or purchaser of property and who can
240 | establish by a preponderance of the evidence that at the time the property was acquired
241 | by the person, the person had no knowledge or reason to know that the property was
242 | contaminated, or that a hazardous substance was discharged or disposed of on, in or at the
243 | property.

244 | (1) ~~___~~ To establish that a person had no reason to know what the person was
245 | undertaking at the time of acquisition, All Appropriate Inquiries shall be taken
246 | into the previous ownership and uses of the property.

247 | (f) ~~___~~ Any person who purchases property after January 11, 2002 with knowledge that it is
248 | contaminated if:

249 | (1) ~~___~~ the person did not cause the contamination on the property;

250 | (2) ~~___~~ the person establishes that all disposal of hazardous substances occurred
251 | before the person acquired the property;

252 | (3) ~~___~~ the person makes All Appropriate Inquiries into previous ownership and
253 | uses of the property prior to acquiring the property; and

254 | (4) ~~___~~ the person is not affiliated with a party liable for any contamination.

255 | 401.7-10. ~~___~~ Where there is an unresponsive or unknown responsible party, the Division may refer
256 | the site to the appropriate outside agency to retain contractors or consultants, and take other
257 | necessary actions to conduct remedial action or have remedial action conducted at a site.

258 | **401.8. ~~___~~ Remedial Actions**

259 | 401.8-1. ~~___~~ A responsible party shall take immediate action to halt the discharge of a hazardous
260 | substance and to minimize the harmful effects of the discharge.

261 | 401.8-2. ~~___~~ If, after the initial assessment, it is determined that the discharge may cause
262 | contamination or has caused contamination, the Division shall issue an administrative order to
263 | the responsible party or parties to take remedial action or have remedial action conducted on the
264 | site.

265 | 401.8-3. ~~___~~ The Division shall determine the appropriate remedial actions, including the time
266 | frame, to be taken in the event a site is contaminated. Remedial actions may include:

267 | (a) ~~___~~ the replacement and/or removal of injured plant and animal life or contaminated
268 | soil.

269 | (b) ~~___~~ the treatment of contaminated soils and/or surface and/or groundwater.

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270 | (c) ~~___~~ adequate storage, handling and disposal methods to prevent further and/or future
271 | discharges and contamination from occurring.

272 | (d) ~~___~~ the replacement or repair of faulty equipment.

273 | (e) ~~___~~ other remedial actions that restore the environment and/or protect the environment
274 | from the contamination, as determined by the Division.

275 | 401.8-4. ~~___~~ Where it is determined by the Division that immediate remedial action is not being
276 | taken, but is necessary to protect the public health, safety or welfare or the environment, the
277 | Division may conduct remedial action or have remedial action conducted. Costs of any such
278 | action may be recovered from any or all responsible parties.

279 | 401.8-5. ~~___~~ In addition to the requirements of this law, the Division shall comply with all
280 | applicable federal laws when the discharge or threat of a discharge of a hazardous substance
281 | occurs.

282 | 401.8-6. ~~___~~ Each responsible party is strictly liable, jointly and severally, for all remedial action
283 | costs and for all damages resulting from the discharge or threatened discharge of a hazardous
284 | substance.

285 | **401.9. ~~___~~ Case Closure or No Further Action**

286 | 401.9-1. ~~___~~ The Division may close a case concerning a site or verify that no further action is
287 | necessary, upon compliance with the applicable requirements of this law and any administrative
288 | orders issued by the Division, including the completion of remedial actions. The Division shall
289 | conduct investigations and inspections to ensure compliance with any administrative order it has
290 | issued.

291 | 401.9-2. ~~___~~ Sampling shall be conducted at the completion of the remedial action when:

292 | (a) ~~___~~ The hazardous substance discharge is in contact with groundwater.

293 | (b) ~~___~~ The amount, identity or duration of the contamination is unknown.

294 | (c) ~~___~~ Other site conditions indicate that sampling is necessary to confirm the adequacy
295 | of the remedial action.

296 | 401.9-3. ~~___~~ The Division may require additional remedial actions, including monitoring, for any
297 | site, even those cases that have been closed by the Division, if information regarding site
298 | conditions indicates that contamination on or from the site poses a threat to public health, safety
299 | or welfare or the environment.

300 | 401.9-4. ~~___~~ If additional remedial action is required for a previously closed case, the Division:

301 | (a) ~~___~~ Shall indicate in writing to the responsible parties that additional remedial action
302 | is needed at the site and provide the responsible parties with information regarding the
303 | nature of the problem and type of remedial action that is needed.

304 | (b) ~~___~~ May require the responsible parties to achieve compliance with ~~Tribal~~ the Nation's
305 | public health and environmental laws, within a time period established by the Division.

306 | **401.10. Violations, Enforcement and Penalties Appeals**

307 | 401.10-1. Compliance Orders. If, after issuing an administrative order, the Division determines
308 | that a violation of the administrative order exists, it shall issue a compliance order which requires
309 | the responsible parties to:

310 | (a) ~~___~~ Take remedial action to prevent or abate the discharge of a hazardous substance;
311 | and/or

312 | (b) ~~___~~ Allow the investigation of a site believed to be contaminated or under threat of
313 | contamination.

314 | 401.10-2. Penalty Schedule. The ~~Oneida Business Committee shall~~ Environmental Resource
315 | Board is delegated rulemaking authority to adopt a ~~fine~~ penalty schedule, upon recommendation

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316 of the Division, for violations of this law. Any person who does not comply with a compliance
317 order issued by the Division may receive a fine penalty in accordance with the fine schedule. A
318 separate offense shall be deemed committed on each day during or on which a violation occurs
319 or continues.

320 ~~(a) Each day a violation exists or continues shall constitute a separate offense.~~

321 (a) Any order issued pursuant to this law that is not complied with may be physically
322 enforced by the Division at the Owner's expense.

323 ~~(b) _____ Any person who is a lessee of the TribeNation who violates any provision~~
324 ~~of this law or any compliance order issued by the Division shall have said case referred to~~
325 ~~the Land CommissionDivision of Land Management to consider potential lease~~
326 ~~violations.~~

327 **401.11. Appeals**

328 ~~401.11-1. *Appeal of Compliance Orders*—A person may appeal a compliance order issued by the~~
329 ~~Division by filing a written appeal with the Division Director within ten (10) business days after~~
330 ~~the order is issued.~~

331 ~~(a) The Division Director shall uphold, revise or reverse the order, in writing, within five~~
332 ~~(5) business days after receiving the appeal.~~

333 ~~(b) A person may appeal the Division Director's decision by filing a written appeal with~~
334 ~~the Environmental Resources Board within ten (10) business days after the Division~~
335 ~~Director's decision.~~

336 ~~(1) The Environmental Resources Board shall conduct a hearing on the Division~~
337 ~~Director's decision and shall uphold, revise or reverse the decision of the Division~~
338 ~~Director.~~

339 ~~(2) The Environmental Resources Board shall post and publish its final decision,~~
340 ~~within ten (10) business days after the hearing. The Environmental Resources~~
341 ~~Board shall include in its decision specific facts which are the basis for its~~
342 ~~decision, and shall forward the decision to the parties of the appeal.~~

343 ~~401.11-2. *Contesting the Issuance of a Fine*—Any person issued a fine under this law may~~
344 ~~contest the fine by attending a hearing before the Environmental Resources Board.~~

345 ~~(a) The fine shall specify the date, time and place of the hearing. The hearing shall take~~
346 ~~place at least five (5) days after the fine is issued.~~

347 ~~(1) If the person does not wish to contest the fine, he or she shall pay the fine by~~
348 ~~the hearing date specified on the fine.~~

349 ~~(b) After the hearing, the Environmental Resources Board shall determine whether the~~
350 ~~person is responsible for the fine, as was issued by the Division, and may set a new date~~
351 ~~for when the fine shall be paid.~~

352 ~~401.11-3. *Appeals from the Environmental Resources Board*~~ 401.10-3. *Contested Action*
353 *Hearings.* All citations, penalties, orders and declarations issued pursuant to this law shall
354 include a pre-hearing date with the Judiciary Trial Court which shall be set for the next
355 scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued.
356 Persons wishing to contest a citation shall appear at the prehearing, at which time the Judiciary
357 Trial Court shall accept pleas which either contest or admit committing the act for which the
358 citation was issued. The Judiciary shall schedule a hearing as expeditiously as possible, provided
359 that it shall be scheduled within ninety (90) days of the date of the prehearing, for all persons
360 entering a plea contesting the fact that they committed the act for which a citation was issued. In
361 addition to scheduling requested hearings, the Judiciary may also make conditional orders at the
362 prehearing which are effective until the matter is resolved.

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363 (a) Community Service. Community service may be substituted for fines at the
364 Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of
365 one (1) hour per ten dollars (\$10.00) of the fine.

366 (b) Allocation of Citation Revenue. All fines and penalties issued by citations are
367 payable to the Environmental Resource Board or its designee, the proceeds of which the
368 Environmental Resource Board shall contribute to the Nation's general fund.

369 (c) ~~Appealing the Decision.—Any party of interest may appeal a decision~~ of the
370 ~~Environmental Resources Board to the Judiciary~~ *Judiciary Trial Court*. Any person
371 wishing to contest the determination of the Judiciary Trial Court may appeal the
372 applicable determination to the Judiciary's Court of Appeals in accordance with the Rules
373 of Appellate Procedure.

374 (d) Pursuing Payment of a Citation. The Environmental Resource Board may pursue
375 payment from parties who have failed to make the required payments through the
376 garnishment process contained in the Garnishment law and/or by attaching a Tribal
377 law member's per capita payment pursuant to the Per Capita law.

378
379 *End.*

381 Adopted – BC-09-12-12-B
382 Amended – BC-02-25-15-C

FINANCE ADMINISTRATION
Fiscal Impact Statement



MEMORANDUM

DATE: June 7, 2017

FROM: Rae Skenandore, Project Manager

TO: Larry Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer

RE: **Fiscal Impact of the transfer of the Environmental Resource Board's Hearing Authority to the Oneida Judiciary**

I. Estimated Fiscal Impact Summary

Law: Domestic Animal Hunting, Fishing and Trapping law (HTF) Public Use of Tribal Land (Public Use) Tribal Environmental Response (TERP) Well Abandonment Law (Well Abandonment) All-Terrain Vehicle Law (ATV) Water Resources Ordinance (Water Resources) On-Site Waste Disposal Ordinance (Waste Disposal)	Draft 19 Draft 2 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1
Implementing Agency	Oneida Police Department (OPD) Conservation Environmental Resource Board (ERB) Emergency Management Environmental Health and Safety Division Comprehensive Health Division Oneida Judiciary
Estimated time to comply	January 1, 2018
Estimated Impact	Current Fiscal Year 10 Year Estimate
ERB stipend savings	\$830 \$8,300
Total Estimated Savings	\$830 \$8,300
Revenue and cost considerations	Fee Schedules should be removed from the various Laws
Uncertainties and Unknowns	None

II. Background

A. Legislative History

The Oneida Business Committee created the Environmental Resource Board through Resolution BC-02-22-85-B. GTC Resolution 01-07-13-B established the Oneida Judiciary.

B. Summary of Content

1. The Domestic Animal amendments are being processed separately in order to make further revisions. However, it is included here because there are no additional fiscal impacts due to the amendments.
2. All Laws are being amended to state that the Trial Court is the entity authorized to conduct hearings.
3. Other minor changes, including formatting, have been made to these Laws to comply with drafting style. These changes do not affect the content of these Laws.

C. Methodology and Assumptions

1. A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.
2. Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.
3. The analysis was completed based on the information provided as of the date of this memo.

III. Agency

The hearing authority will simply be transferred from ERB to the Judiciary. Historical hearing stipends paid to the Board were \$750 in 2017, \$1,200 in 2016, and \$700 in 2015. Transferring the hearing authority to the Judiciary would result in an average savings of approximately \$830 annually. The Judiciary does not anticipate any additional costs as this will simply be absorbed into their existing duties. ERB has stated that they expect the transition of the hearing authority to be complete by January 1, 2018

IV. Financial Impact

Approximately \$830 savings annually.

V. Recommendation

Finance does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Consider adoption of the amendments to the On-Site Waste Ordinance

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="Adoption packet"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jennifer Falck, LRO Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chairperson *BS*
DATE: July 26, 2017
RE: On-Site Waste Disposal Law Amendments

Please find the following attached backup documentation for your consideration of the On-Site Waste Disposal Law Amendments:

1. Resolution: On-Site Waste Disposal Law Amendments
2. Statement of Effect: On-Site Waste Disposal Law Amendments
3. On-Site Waste Disposal Law Amendments: Legislative Analysis
4. On-Site Waste Disposal Law Amendments: Clean Draft
5. On-Site Waste Disposal Law Amendments: Redline to Current Draft
6. On-Site Waste Disposal Law Amendments: Fiscal Impact Statement

Overview

This resolution adopts amendments to the Public Use of Tribal Land Law to transfer the Environmental Resource Board's hearing authority to the Judiciary.

In accordance with the Legislative Procedures Act, a public meeting was held regarding this law on June 15, 2017 with a comment period closing on June 29, 2017. There were no comments provided. These amendments will become effective beginning in the new fiscal year on October 1, 2017.

Requested Action

Approve the Resolution: Public Use of Tribal Land Law Amendments

BC Resolution _____

On-Site Waste Disposal Law Amendments

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WHEREAS, the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, the Oneida Business Committee originally adopted the On-Site Waste Disposal Ordinance through resolution BC-10-28-88-A; and

WHEREAS, the Amendments to the Ordinance transfer the Environment Resource Board’s original hearing body authority and responsibilities to the Oneida Judiciary as part of an effort to standardize and streamline all of the Nation’s hearing responsibilities; and

WHEREAS, a public meeting on the proposed Amendments was held on June 15, 2017 in accordance with the Legislative Procedures Act; and

NOW THEREFORE BE IT RESOLVED, that the On-Site Waste Disposal Law Amendments are hereby adopted and shall become effective on October 1, 2017.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



Statement of Effect

On-Site Waste Disposal Law Amendments

Summary

This Resolution adopts Amendments to the On-Site Waste Disposal Law (the “Law”) which transfer the Environmental Resource Board’s original hearing body authority to the Oneida Judiciary.

Submitted by: Krystal L. John, Staff Attorney, Oneida Law Office

Analysis by the Legislative Reference Office

As stated above, these amendments will transfer the delegation of original hearing body authority from the Environmental Resource Board to the Oneida Judiciary. Such a transfer would implicate the Judiciary law and the Environmental Resource Board’s by-laws.

The transfer of hearing body authority would fit into the Oneida Judiciary’s subject matter jurisdiction according to the Judiciary law based on section 801.5-2, which provides that, “The Trial Court shall have subject matter jurisdiction over cases and controversies arising under the following... (a) Tribal laws which specifically authorize the Trial Court to exercise jurisdiction...” *Judiciary*, 8 O.C. 801 § 801.5-2. These amendments to the Law specifically authorize the Trial Court to exercise jurisdiction based on section 407.7-6. *Contested Action Hearings*, which reads as follows:

All citations, penalties, forfeitures, orders and declarations issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all persons entering a plea contesting the fact that they committed the act for which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also make conditional orders at the prehearing which are effective until the matter is resolved. ...

(c) Appealing the Decision of the Judiciary Trial Court. Any person wishing to contest the determination of the Judiciary Trial Court may appeal to the Judiciary Court of Appeals in accordance with the Rules of Appellate Procedure. ...

The Environmental Resource Board’s by-laws provide the Board’s duties and responsibilities, among other things. Adoption of this law conflicts with the Board’s by-laws and the by-laws recognize the Environmental Resource Board’s original hearing body authority in section 1-4.b., which reads as follows: “The ERB shall serve as the original hearing body in matters concerning environmental and conservation laws and ordinances promulgated by the Oneida Tribe.” Accordingly, if this resolution is adopted, the Environmental Resource Board’s by-laws would need

to be amended to remove the original hearing body authority from the Board's duties and responsibilities.

A public meeting was held for these Amendments on June 15, 2017 for which the public comment period expired on June 22, 2017 in accordance with the Legislative Procedures Act. There were not any oral or written comments submitted.

Conclusion

Adoption of this Resolution would require the Environmental Resource Board's by-laws to be amended to remove the original hearing body authority from the Board's duties and responsibilities.



Hearing Authority Transfer Legislative Analysis

SECTION 1. BACKGROUND

REQUESTER: LOC	SPONSOR: Tehassi Hill	DRAFTER: Krystal L. John	ANALYST: Candice E. Skenandore
Intent of the Amendments	To further utilize the Judiciary.		
Purpose	To transfer the Environmental Resource Board (ERB) hearing authority to the Judiciary.		
Affected Entities	Trial Court, ERB		
Affected Legislation	Hunting, Fishing and Trapping law, Public Use of Tribal Land, Tribal Environmental Response, Well Abandonment Law, All-Terrain Vehicle Law, Water Resources Ordinance		
Enforcement/Due Process	ERB will no longer hold hearings; hearing will now be conducted by the Trial Court in accordance with the Rules of Civil Procedure.		
Public Meeting	A public meeting was held on June 15, 2017.		

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A.** Since 1985, ERB served as the hearing body authority over the Nation's environmental regulations.
- 3 On May 2, 1990, the Oneida Business Committee established the Oneida Tribal Judicial System (aka
- 4 Oneida Appeals Commission) and General Tribal Council reauthorized the Oneida Tribal Judicial
- 5 System on August 19, 1991 [*See BC Resolution 05-02-90 and GTC Resolution 8-19-91-A*]. The
- 6 purpose of the Oneida Appeals Commission was to enhance and protect self-governance and
- 7 sovereignty as well as enhance the separation of powers between the legislative, executive and
- 8 juridical responsibilities of the Nation. The Oneida Appeals Commission removed the Oneida
- 9 Business Committee from initial judicial decisions [*See GTC Resolution 8-19-91-A*].
- 10 **B.** In 2013, the General Tribal Council changed the structure of the Oneida Tribal Judicial System by
- 11 creating an Oneida Judiciary comprised of the Tribal Court and a Court of Appeals through the
- 12 adoption of the Judiciary law. The purpose of the Judiciary is to grant the Trial Court and Court of
- 13 Appeals expanded subject matter jurisdiction and create a greater role for the use of mediation and/or
- 14 peacemaking [*See GTC Resolution 01-07-13-B*].
- 15 **C.** These proposed amendments will transfer hearing authority from ERB to the Trial Court. The
- 16 following laws are amended to reflect the transfer of hearing authority:
- 17 ▪ Hunting, Fishing and Trapping law (HTF)
 - 18 ▪ Public Use of Tribal Land (Public Use)
 - 19 ▪ Tribal Environmental Response (TERP)
 - 20 ▪ Well Abandonment Law (Well Abandonment)
 - 21 ▪ All-Terrain Vehicle Law (ATV)
 - 22 ▪ Water Resources Ordinance (Water Resources)
 - 23 ▪ On-Site Waste Disposal Ordinance (Waste Disposal)
- 24

SECTION 3. CONSULTATION

26 A. ERB and the Trial Court have been consulted in the development of this legislative analysis.
27

28 **SECTION 4. PROCESS**

29 A. These Laws have followed the process set forth in the Legislative Procedures Act (LPA) except that
30 the public meeting was not properly noticed to all managers or directors. The LPA requires the public
31 meeting notice, legislation, legislative analysis and fiscal impact statement, if fiscal impact statement is
32 available, to be electronically provided to all managers or directors a minimum of ten business days
33 before a public meeting is held [*See Legislative Procedures Act, 1 O.C. 109.8-2 (b)*]. The notice and
34 backup documents were provided electronically to all managers or directors on Tuesday, June 13, 2017;
35 the public meeting was held Thursday, June 15, 2017. The public meeting was properly noticed in the
36 Kalihwisaks and was made public on the Oneida Register at least ten business days prior to the public
37 meeting as required by the LPA [*See Legislative Procedures Act, 1 O.C. 8-2 (a & b)*]. The LOC
38 extended the public comment period for these laws for an additional five business days, ending on
39 Thursday, June 29, 2017.

40 B. A work meeting with ERB was held on Wednesday, May 17, 2017 and a work meeting with ERB and
41 the Judiciary was held on Monday, June 12, 2017.
42

43 **SECTION 5. CONTENTS OF THE LEGISLATION**

44 A. The identified laws in Section 2.C of this analysis have been amended to state that the Trial Court is
45 the entity authorized to conduct hearings.
46

47 **SECTION 6. INTENT**

48 A. The intent of these amendments is to further utilize the Oneida Judiciary. The LOC has already
49 decided to transfer hearing authority from identified entities to the Judiciary. The majority of the
50 Oneida Land Commission's and some of the Trust Enrollments Committee's hearing authority has
51 already transferred to the Judiciary. Because the LOC is currently working on amendments the
52 Domestic Animals law in which ERB has hearing authority, it was decided to amend all laws which
53 grant ERB hearing authority and transfer that authority to the Judiciary.
54

55 **SECTION 7. EFFECT ON EXISTING LEGISLATION**

56 A. These amendments do not conflict with other laws or policies of the Nation.
57

58 **SECTION 8. OTHER CONSIDERATIONS**

59 A. The following table shows the type and approximate number of hearings ERB has held since 2012.
60 Included are hearings that pertain to Domestic Animals violations; however, the Domestic Animal
61 amendments are being processed separately in order to make further revisions. In total, ERB has held
62 approximately 69 hearings since 2012.
63

64

	ATV	HFT	Waste Disposal	Public Use	TERP	Water Resources	Well Abandonment	Domestic Animal	TOTAL
2012	0	1	0	0	0	0	0	1	2
2013	0	5	0	0	0	0	0	0	5
2014	0	14	0	0	0	0	0	3	17
2015	0	0	0	1	0	0	0	6	7
2016	0	11	0	2	0	0	0	19	32
2017	0	2	0	0	0	0	0	4	6
TOTAL	0	33	0	3	0	0	0	33	69

65 **B.** Minor changes, including formatting, have been made to these laws to comply with drafting style.

66 These changes do not affect the content of these laws.

67 **C.** Please refer to the fiscal impact statement for any financial impacts.

68

69 SECTION 9. ADDITIONAL AMENDMENTS

70 **A. *Hunting, Fishing, and Trapping law (Law)*.** In additions to the amendments which transfer ERB's
 71 hearing authority to the Judiciary, additional amendments were made to the Hunting, Fishing, and
 72 Trapping law. These amendments include revising section 406.4-3 which states that this Law does
 73 not negate the jurisdiction of the State of Wisconsin in instances that involve non-member Indians
 74 and non-Indians. This means that non-member Indians and non-Indians hunting, fishing and trapping
 75 on land owned by the Nation must adhere to the Nation's license, permit and tag requirements but
 76 may also be subject to State requirements. In addition, license and permit holders cannot utilize
 77 hunting, fishing, or trapping privileges within the Reservation using a State license that would
 78 provide greater privileges than those afforded in this Law and any applicable rules [*See Hunting,*
 79 *Fishing and Trapping, 4 O.C. 406.4-3*].

80

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Title 4. Environment and Natural Resources - Chapter 407
ON-SITE WASTE DISPOSAL
Tsi? Yeyakotyetáhkwa Olihwá'ke
The matters concerning where the garbage is kept

407.1.	Introduction	407.5.	Permits and Applications
407.2.	Adoption, Amendment and Repeal	407.6.	Inspections
407.3.	Definitions	407.7.	Administration and Enforcement
407.4.	General Requirements		

407.1. Introduction

407.1-1. *Applicability.* This law shall apply to all Oneida Tribal Entities, the Oneida Nation itself, and members of the Oneida Nation within the exterior boundaries of the Oneida Nation Reservation.

407.1-2. *Purpose.* The purpose of this law is to establish regulations to ensure that private on-site sewage treatment systems will fulfill Oneida Tribal goals for improving environmental health and safety. The regulations herein will set forth procedures for administration of the program; general requirements for proper siting, design, installation, inspection, and maintenance of the systems; limitations of private systems; and enforcement mechanisms and procedures. The ultimate intent of this law is to support the Oneida belief of taking care of Mother Earth. As unforeseen events may arise which are not specifically addressed in this law, this stated intent, along with the following basic principles, should define a course of action for unforeseen events.

(a) NEED-Every building intended for human habitation or occupancy shall be provided with a properly functioning system for treatment and disposal of domestic waste.

(b) PUBLIC SEWERS-When public sewers become available to any building intended for human habitation or occupancy, the use of the private sewage system shall be discontinued within that period of time required by order, but not exceed one (1) year. The owner shall be required to connect to public sewers sooner than the one (1) year date if the system meets the definition of a failing system. When funding for the connection is available, the owner shall be required to connect sooner than the one (1) year date, and the connection shall be made from the private sewage system and be connected to the public sewers sooner than the one (1) year date if the system meets the definition of a failing system. When funding for the connection sooner than the one (1) year date, and the connection shall be made according to the contractor's construction schedule. The building sewer shall be disconnected from the private sewage system and be connected to the public sewer. All abandoned treatment tanks and seepage pits shall have the contents pumped and disposed of in accordance with chapter NR 113, Wisconsin Administrative Code. The top or the entire tank shall be removed and the remaining portion of the tank or excavation shall be immediately filled with clean, suitable soil material.

(c) DISCHARGES/FAILING SYSTEMS-Every private sewage system shall be designed, located and constructed to prevent ponding of effluent within the soil absorption system or an y discharge or sewage into drain tiles, onto the ground surface, into the structure served, or into the surface waters or groundwater within the exterior

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34 boundaries or adjacent to the Oneida Nation Reservation including zones of seasonal soil
35 saturation.

36 (d) MAINTENANCE-Every private sewage system shall be adequately maintained.

37 (e) NUISANCE-Every private sewage system shall be designed and constructed to
38 adequately dispose of all the wastewater generated in the structure or facility it is serving.
39

40 **407.2. Adoption, Amendment and Repeal**

41 407.2-1. This law was adopted by the [Oneida Business Committee or Oneida General Tribal
42 Council] by resolution BC-10-28-88-A and amended by resolution _____.

43 407.2-2. This law may be amended or repealed by the Oneida Business Committee and/or
44 Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures
45 Act.

46 407.2-3. Should a provision of this law or the application thereof to any person or
47 circumstances be held as invalid, such invalidity shall not affect other provisions of this law
48 which are considered to have legal force without the invalid portions.

49 407.2-4. In the event of a conflict between a provision of this law and a provision of another
50 law, the provisions of this law shall control.

51 407.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
52

53 **407.3. Definitions**

54 407.3-1. For the purposes of this law, the following definitions shall apply. All other words
55 shall be defined according to dictionary reference.

56 (a) “Approved” means accepted or ratified by the Environmental Health and Safety
57 Division.

58 (b) “As-Built Plan” means a final plan of any system as installed.

59 (c) “Availability of Public Sewers” means when a public sewer line either passes in
60 front of a lot line or comes within two hundred feet (200’) of a lot line, availability of the
61 public sewers for servicing buildings on the lot is established.

62 (d) “Bedrock” means the rocks that underlie soil materials or are at the earth’s surface.
63 Bedrock is encountered when the weathered in-place consolidated material, larger than 2
64 mm in size, is greater than fifty percent (50%) by volume.

65 (e) “Building” means -a structure having walls and a roof erected or set upon an
66 individual foundation or slab-constructed base designed or used for the housing, shelter,
67 enclosure or support of any kind, which is intended for human habitation or occupancy. A
68 mobile home is included in this definition. Each structure abutting another structure
69 which does not have an ingress-egress doorway through the basement foundation walls,
70 or structures with separate exterior or exterior abutting walls, or public use structures
71 separated by an unpierced firewall, shall be considered as separate or individual building.

72 (f) “Cesspool” means a covered excavation in the ground which receives sewage or
73 other organic matter and solids, permitting the liquids to seep into the soil cavities.
74 Cesspools are prohibited.

75 (g) “Cleanout”- means a plug or cover made of material approved by the Department,

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- 76 joined by means of a screw thread to an opening in a pipe, which can be removed for the
77 purpose of cleaning or examining the interior of the pipe.
- 78 (h) “Cleanwater Wastes” means cooling water and condensate drainage from
79 refrigeration compressors and air-conditioning equipment, water used for impurities have
80 been reduced below a minimum concentration considered harmful, and cooled
81 condensate from steam heating systems or other equipment.
- 82 (i) “Color” means the moist color of the soil based on Munsell soil color charts.
- 83 (j) “Community On-Site Waste Disposal System” means an on-site waste disposal
84 system servicing more than one (1) building being served. A community sewage system
85 may be owned by the property owners, the Nation, or special purpose district.
- 86 (k) “Conventional Soil Absorption System” means a system that employs gravity flow
87 from the septic or other treatment tank and applies effluent to the soil through the use of a
88 seepage trench, bed or pit.
- 89 (l) “Department” means the Oneida Tribal Environmental Health and Safety Division.
- 90 (m) “Detailed Soil Map” means a map prepared by or for a state or federal agency
91 participating in the national cooperative soil survey showing soil series, type and phases
92 at a scale of not more than 2,000 feet to the inch and includes related explanatory
93 information.
- 94 (n) “Dosing Tank” means a tank used for the collection of sewage effluent from a septic
95 or solids tank. The effluent is pumped from the dosing tank to a soil absorption field.
- 96 (o) “Dwelling Unit” means one (1) or more rooms with provisions for living, sanitary
97 and sleeping facilities which are used or intended to be used by one (1) person or by two
98 (2) or more persons maintaining a common household.
- 99 (p) “Effluent” means liquid discharge from a septic or other treatment tank.
- 100 (q) “Existing” means prior to the adoption date of this law.
- 101 (r) “Experimental System” means an on-site wastewater treatment system designed to
102 overcome site limitation which would preclude the installation of any of the standard soil
103 absorption systems defined in this law. Not all sites are suitable for experimental systems.
- 104 (s) “Failing Private Sewage System” means a failing private sewage system is one
105 (1) which causes or results in any or the following conditions:
- 106 (1) The failure to accept sewage discharges resulting in the back up of sewage
107 into the structure served by the private sewage system.
- 108 (2) The discharge of sewage to the surface of the group or to a drain tile.
- 109 (3) The discharge of sewage to any waters within the exterior boundaries or
110 adjacent to the Oneida Nation Reservation.
- 111 (4) The introduction of effluent into zones of saturation which adversely affects
112 the operation of a private sewage system.
- 113 (5) The ponding of effluent within the soil absorption system.
- 114 (t) “Grease Interceptor” means a watertight tank which is installed underground for the
115 collection and retention of grease from cooking of food processing and which is
116 accessible for periodic removal of the contents.
- 117 (u) “High Groundwater” means zones of soil saturation which include: Perched water

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- 118 tables, shallow regional groundwater tables or aquifers, or zones that are seasonally,
119 periodically or permanently saturated. Unless otherwise proven, the presence of soil
120 mottles indicates the level of seasonal saturation.
- 121 (v) “Holding Tank” means an approved watertight receptacle for the collection and
122 holding of sewage, which requires pumping by a licensed sanitary hauler.
- 123 (w) “Indoor Plumbing” means one (1) plumbing fixture constitutes an indoor plumbing
124 system.
- 125 (x) “In-Ground Pressure Distribution System” means a pressurized soil absorption
126 system placed entirely within the natural soil and based on the mound system design.
- 127 (y) “Legal Description” means inaccurate Metes and Bounds description, a claim
128 number, a lot and block number in a recorded subdivision, a recorded assessor’s plat or
129 public land survey description to the nearest forty (40) acres in 1/4-1/4 sections (ie: NW
130 1/4 of the NE 1/4, Section 10, T24N-R18E).
- 131 (z) “Mobile Home” means a transportable structure mounted on a chassis and designed
132 to be used with or without a permanent foundation as a dwelling as a dwelling unit. The
133 phrase “without a permanent foundation” indicates that the support system is constructed
134 with the intent that the mobile home thereon may be moved from time to time at the
135 convenience of the owner.
- 136 (aa) “Modified Mound System” means a soil absorption system which utilized pressured
137 distribution of the effluent and sandy fill materials to overcome sites with specific
138 limiting conditions. The limiting conditions are:
- 139 (1) Depth to seasonal high groundwater of 24 to 54 inches with percolation rates
140 of 0 to 180 minutes per inch.
- 141 (2) Depth to seasonal high groundwater of 12 to 54 inches with percolation rates
142 of 0 to 120 minutes per inch.
- 143 (bb) “Mound System” means a system which utilized pressurized distribution of the
144 effluent and sandy fill conditions are:
- 145 (1) Depth to fractured bedrock of twenty-four inches (24”) to fifty-four inches
146 (54”) with percolation rates of zero (0) to sixty (60) minutes per inch
- 147 (2) Depth to seasonal high groundwater levels of twenty-four inches (24”) to fifty-
148 four inches (54”) with percolation rates between zero (0) and one hundred twenty
149 (120) minutes per inch.
- 150 (cc) “Nuisance” means -any source of filth, odor or probable cause of sickness, as is
151 described in Wisconsin Statue 146.14
- 152 (dd) “Oneida Nation” means Oneida Nation, a federally recognized Indian government
153 and a Treaty Tribe recognized by laws of the United States.
- 154 (ee) “On-Site Waste Disposal System” means a sewage treatment disposal system
155 serving a single building with a septic tank and soil absorption field located on the same
156 parcel as the building. This term also means an alternative substitute for the septic tank or
157 soil absorption field, a holding tank, a system serving more than one (1) building, or a
158 system located on a different parcel than the building, or a system located on a different
159 parcel than the building. A private sewage system may be owned by the property owner

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- 160 or by a special purpose district.
- 161 (ff) “Percolation Test” means the method used for testing soil absorption qualities, as
162 described in ILHR 83,09(5), Wisconsin Administrative Code. All soil Wisconsin-licensed
163 Certified Soil Testers.
- 164 (gg) “Permeability” means the ease with which liquid move through the soil. One (1) of
165 the soil qualities listed Certified Soil Testers.
- 166 (hh) “Plumber” means a person licensed by the State of Wisconsin as a Master Plumber
167 or Master Plumber Restricted Sewer Services, as described in Wisconsin State Statute
168 145.01
- 169 (ii) “Pressure Distribution System” means a soil absorption system that employs a pump
170 or automatic siphon and small diameter distribution pipping with small diameter
171 perforations to introduce effluent into the soil. Plan review and departmental approval is
172 required for each system of this type. Approval will only be given on a case by case
173 basis. Approval shall only be given on an individual basis.
- 174 (jj) “Privy” means a structure that is not connected to a plumbing system, which is used
175 by persons for the deposition of human body wastes.
- 176 (kk) “Privy-Pit” means a privy with earthen sidewalls and/or bottom. The privy shall be
177 so constructed as to be insect and rodent proof as described in ILHR 53.63, Wisconsin
178 Administrative Code
- 179 (ll) “Privy-Vault” means a privy with watertight vault consisting of one (1) of the
180 following:
- 181 (1) concrete sidewalls and bottom(poured in place)
- 182 (2) a prefabricated concrete tank
- 183 (3) an asphalt coated steel tank
- 184 (A) The tank shall be constructed insect and rodent proof per ILHR 52.63
185 Wisconsin administrative Code.
- 186 (mm) “Public Sewers” means a wastewater treatment system which utilizes collection of
187 the sewage through underground sewer pipes, which all flow to one (1) collection station,
188 where the wastewater is then treated. Public sewers provide service to more than one (1)
189 residence, and each residence is charged a fee for wastewater collection and treatment.
- 190 (nn) “Seepage Bed” means an excavated area larger than five feet (5’) in width which
191 contains a bedding of aggregate and has more than one (1) distribution line.
- 192 (oo) “Seepage Pit” means an underground receptacle so constructed as to permit disposal
193 of effluent or clear wastes by soil absorption through its flood and walls.
- 194 (pp) “Septic Tank” means a tank which receives and partially treats sewage, through
195 processes of sedimentation, oxygenation, flotation and bacterial action so as to separate
196 solids from liquid in the sewage, and discharges and public buildings.
- 197 (qq) “Sewage” means the liquid and water carried wastes created in and conducted away
198 from residences, industrial establishments and public buildings.
- 199 (rr) “Soil” means the unconsolidated material over bedrock.
- 200 (ss) “Soil Absorption” means any sewage treatment system which has a solid separation
201 tank and utilizes distribution of the sewage effluent to unsaturated soil for treatment.

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202 Systems included in this definition are: conventional septic's, mounds, in-ground pressure
203 distribution, at-grade, etc.
204 (tt) "Soil Boring" means an observation pit dug by hand or backbone, a hole dug by
205 auguring or a soil core taken intact and undisturbed with a probe.
206 (uu) "Soil Mottles" means spots or streaks of contrasting soil colors usually caused by
207 soil saturation for some period of a normal year. Soil mottles are used as indicators of the
208 seasonal high groundwater level.
209 (vv) "Soil Saturation" means the state when all the pores in a soil are filled with water.
210 Water will flow from saturated soil into a bore hole.
211 (ww) "Topsoil" means the undisturbed surface horizon of a soil often characterized by a
212 clack or dark grayish brown color due to a higher content of organic matter.
213 (xx) "Tribal Vendor's Permit" means a permit issued by the Environmental Health and
214 Safety Division for the installation of a private sewage system.
215 (yy) "Vent Cap" means an approved appurtenance used for covering the vent terminal of
216 a soil absorption system, to avoid closure by mischief or debris, and still permit
217 circulation of air within the system.
218 (zz) "Workmanship" means work of such character that will fully secure the results
219 sought in all the sections of this law as intended for the safety, welfare and health
220 protection of all individuals.

222 **407.4. General Requirements**

223 407.4-1.

224 (a) Every building or structure intended for human habitation or occupancy, within the
225 scope of applicability of this law, shall have a Tribally-approved on-site private sewage
226 treatment system or be connected to a public sewer system. Such systems shall be
227 approved on-site private sewage treatment system or be connected to a public sewer
228 system. Such systems shall be approved only if no public sewers are available to service
229 said buildings. Unless specifically approved by the Nation, the private sewage system to
230 each building. A private sewage system may be owned by the property owner or by a
231 special purpose district. The use of a community on-site waste disposal system or a
232 system on a different parcel than the structure shall be subject to the same permit
233 requirements and procedures as for systems serving public buildings. The private sewage
234 system for newly constructed buildings shall be installed, inspected and approved before
235 the building can be occupied.
236 (b) The type of on-site waste disposal system approved for use on a site shall be
237 dependent upon site conditions. Approvable types of on-site waste disposal systems are:
238 (1) Conventional soil absorption systems
239 (2) In ground pressure distribution systems
240 (3) Mound systems
241 (4) Modified mound systems
242 (5) At-grade systems
243 (6) Holding tanks

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244 (7) Privies (pit and vault)
245 Approvable systems are not limited to this list, but systems not included on this list may
246 only be approved by the Environmental Health and Safety Division on an individual
247 basis.

248 (c) Additional restrictions

249 (1) Domestic waste-all water carried wastes derived from ordinary living uses
250 shall enter the septic or treatment tank or be discharged to a public or municipal
251 treatment system.

252 (2) Water supply-all new buildings intended for human habitation or occupancy
253 shall be provided with a well and water supply system.

254 (3) Cesspools-cesspools are prohibited.

255 (4) Clear water-The discharge of surface, rain and other clear water into a private
256 sewage system is prohibited.

257 (5) Water shortener and iron filter backwash-Water softener or iron filter
258 discharge may be directed to the private sewage system, a separate below ground
259 surface soil absorption system or to the ground surface if a nuisance is not created.

260 (6) Floodplain-On-site waste disposal systems for new buildings will not be
261 approved for construction within the floodplain. Existing buildings may have a
262 system approved in the flood fringe subject to Departmental approval on an
263 individual basis. All systems shall be flood-proofed to a height of at least two feet
264 (2') above the one hundred (100) year flood elevation.

265 (d) Holding Tanks

266 (1) Holding tanks will not be approved to service any new residential construction.
267 Holding tanks shall only be approved under the following circumstances:

268 (A) As a temporary method of waste containment until public sewers are
269 available, not to exceed two (2) years from the date of installation.
270 Extended use of the holding tanks beyond the two (2) year period will
271 require a permit for the Environmental Health and Safety Division. The
272 holding tanks shall be disconnected and a connection shall be made upon
273 availability of the public sewer system, and the tanks properly abandoned
274 in the manner as is described in ILHR 83, Wisconsin Administrative Code.

275 (B) As a replacement system for existing filing soil absorption systems.
276 Holding tanks shall be approved only if no other soil absorption system can
277 be approved for the site.

278 (C) As an interim measure when there are delays in funding from outside
279 funding agencies. The site must have received written approval for an on-
280 site soil absorption system, and funding must have been appropriated to
281 cover all installation costs. The system must be completed as soon as the
282 funding is made available.

283 (D) As an interim measure for construction reason. If an approved soil
284 absorption system is being constructed, and progress on construction is
285 halted severe weather (ie, winter frost conditions), then holding tanks may

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286 be installed and used only until construction of the soil absorption system
287 can be permitted. The existing residence must be constructed and occupied
288 prior to adoption of this law.

289 (E) For an existing residence where no other soil absorption system can be
290 permitted. The existing residence must be constructed and occupied prior to
291 adoption of this law.

292 (F) For new construction of commercial buildings only where no other soil
293 absorption system can be permitted.

294 (e) Privies

295 (1) Privies are prohibited for all new residential construction.

296 (2) Privies may be permitted only when the existing building served by the privy is
297 not provided with an indoor plumbing system. One (1) plumbing fixture
298 constituted indoor plumbing.

299 (3) All privies must meet the site requirements as described in IRHR 83.10,
300 Wisconsin Administrative Code.

301 (4) When system upgrade becomes available or indoor plumbing is installed, then
302 privy must be properly abandoned, and the building must be connected to an
303 approved on-site waste disposal system or a public sewer system.

304 (5) All chemical, gas electrical, composting and other non-water using toilets must
305 comply with all requirements of privies.

306 (f) Public Sewer Connection

307 (1) When public sewers become available to any buildings intended for human
308 habitation or occupancy, the use of the private sewage system shall be
309 discontinued within that period of time required by order, but not to exceed one (1)
310 year. The building sewer shall be disconnected from the private sewage systems
311 and be connected to the public sewer.

312 (2) The owner shall be required to connect to public sewers sooner than the one (1)
313 year date if the existing private sewage system meets the definition of a failing
314 system.

315 (3) When funding for the connection is available, the owner shall be required to
316 connect to the public sewer sooner than the one (1) year date. The connection shall
317 be made according of the contractor's construction schedule.

318 (4) All abandoned treatment tanks and seepage pits shall have the contents pumped
319 and disposed of in the same manner as is designated in Chapter NR 113,
320 Wisconsin Administrative Code. The top or entire tank shall be removed and the
321 remaining portion of the tank or excavation shall be immediately filled with clean,
322 suitable soil material.

323 (g) Failing systems

324 (1) When a failing or malfunctioning private sewage system is encountered, the
325 sewage disposal system shall be corrected or its use discontinued within that
326 period of time required by departmental order, with a maximum time limit of one
327 (1) year. A failing system is identified when one (1) or more of the following

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- 328 conditions apply:
- 329 (A) The failure of the private sewage system to accept sewage discharges
- 330 and or there is back-up of the sewage to the structure the system services.
- 331 (B) The discharge of sewage to the surface of the ground or to a drain tile.
- 332 (C) The discharge of sewage to any waters within the exterior boundaries or
- 333 adjacent to the operation of private sewage system.
- 334 (D) The introduction of effluent into zones of saturation which adversely
- 335 affects the operation of private sewage system.
- 336 (E) The ponding of effluent within the soil absorption system.
- 337 (h) Incorporation of provisions by reference
- 338 (1) This chapter incorporates by reference the following rules, regulations and
- 339 laws, as set forth in the Wisconsin Statutes and the Wisconsin Administrative Code
- 340 governing the location, construction and use of the private sewage systems.
- 341 (A) State Statutes: 59.065, 59.07(51), 144, 145, 146.13, 146.14, and 968.10
- 342 (B) Wisconsin Administrative Codes: NR 113; ILHR 82 and ILHR 83.
- 343 (2) These rules, regulations and laws shall be available upon request from the
- 344 Environmental Health and Safety Division.
- 345 (3) These rules, regulations, and laws shall be used for purposes of this law only,
- 346 and shall apply until amended or renumbered and then shall apply as amended or
- 347 renumbered.
- 348 (4) References in these codes as to the responsibilities of the "State", "Department",
- 349 "Department of Natural Resources", and "County" shall be directed to the "Oneida
- 350 Nation" and to the "Oneida Environmental Health and Safety Division".
- 351 (i) Administration
- 352 (1) The Oneida Tribal Environmental Specialist shall be responsible for the
- 353 administration of this law. The Environmental Specialist may delegate
- 354 responsibilities to personnel employed by or assigned to assist the Environmental
- 355 Specialist.
- 356 (j) Powers and Duties
- 357 (1) In administering this law, the Environmental Specialist shall have the following
- 358 powers and duties:
- 359 (A) Perform duties, and delegate duties as may be required, to personnel
- 360 assigned to or employed to assist the Environmental Specialist, to assure
- 361 full and complete compliance with this law.
- 362 (B) Provide assistance to applicants preparing permit applications, and
- 363 advise said applicants regarding provisions of this law.
- 364 (C) Review and approve plans for private on-site sewage treatment
- 365 systems.
- 366 (D) Issue permits and perform site inspections for compliance with this
- 367 law.
- 368 (E) Keep records of all permits issued, inspections made, work approved
- 369 and other official actions.

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370 (F) Report violations of this law or other land use regulations to the Tribal
371 office designated by the Oneida Business Committee, as provided for in the
372 Administrative Procedures Act.

373 (G) Have access to any premises for the purposes of performing said duties
374 between 8:00 a.m. and 8:00 p.m. or at other times set by mutual agreement
375 between the property owner or their agent and the Environmental
376 Specialist. Application for permit is considered, for the purposes of this
377 law, as the owner's consent to enter the premises.

378 (H) Upon reasonable cause or question as to proper compliance, revoke any
379 Tribal sanitary permit and issue cease and desist orders requiring the
380 cessation of any construction, alteration or use of a building which is in
381 violation of the provisions of this law, until compliance with this law is
382 obtained.

383 (I) Issue and enforce orders to plumbers, property owners, their agents or
384 contractors of the responsible party, to assure proper owners, their agents or
385 contractors of the responsible party, to assure proper compliance with all
386 provisions of this law. The Environmental Specialist may delegate this
387 authority to the Tribal office designated by the Oneida Business committee,
388 as provided for in the Administrative Procedures Act.

389 (2) Violations of this law which occur on leased land will be reported to the
390 Oneida Land Office and the Oneida Land Office and the Oneida Law Office
391 because said violations may constitute violations of the Tribal Land Lease.

392 (k) Repeal and effective date

393 (1) Tribal sanitary permits are obtained through the Oneida Environmental Health
394 and Safety Division. Completed application shall be submitted for review to the
395 Oneida tribal environmental Specialist. The permit shall be reviewed and
396 processed with two (2) weeks of receiving the completed application package,
397 except in the case of modified mound an experimental systems which may take
398 longer to review.

399 (2) Every on-site waste disposal system installed, expanded, modified, or enlarged
400 after the adoption date of this law shall require a Tribal Sanitary Permit.

401 (3) When a change of ownership occurs, the owner of system shall have the system
402 inspected by a State of Wisconsin Licensed Plumber, Registered Sanitarian or
403 other person accepted by the Environmental Health and Safety Division.

404 (4) A Tribal sanitary permit shall be obtained by the property owner, his/her agent
405 or contractor, in the name of the property owner, prior to the construction of any
406 building which requires a private sewage system. Any property owner, his/her
407 agent or contractor, who starts construction on a building, prior to obtaining a
408 Tribal sanitary permit, is in violations and may be subject to the penalties provided
409 in this law.

410 (5) Before any private sewage system may be installed, enlarged, altered, modified
411 or additions constructed, a Tribal sanitary permit must first be obtained by the

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412 property owner, his/her agent or contractor. Failure to comply with this
413 requirement constitutes a violation of this law. Violations which occur on leased
414 land may also constitute violations of the Tribal land lease.

415 (6) A Tribal sanitary permit shall be obtained prior to constructing or erecting a
416 privy.

417 (7) If any part of a system has failed, the entire system shall be evaluated for
418 compliance with existing codes.

419

420 **407.5. Permits and Applications**

421 407.5-1.

422 (a) Permit Codes

423 (1) The permit card issued by the Environmental Specialist to the property owner
424 or his/her agent shall serve as the Tribal sanitary permit.

425 (2) The permit card shall be displayed at the site in such a manner that it will be
426 visible from a road abutting the lot during all construction phases.

427 (3) The permit card may not be removed until the private sewage system has been
428 installed, inspected and approved by the Environmental Specialist or a Tribally-
429 authorized inspector.

430 (4) Failure to display the permit card shall be considered a violation of this section
431 and may subject the property owner, his/her agent or contractor, to penalty
432 provisions of this law.

433 (b) Application Requirements

434 (1) The Tribal sanitary permit application shall include the following information
435 which shall be furnished by the applicant on forms provided by the Tribal
436 Environmental Health and Safety Division, along with all applicable fees:

437 (A) Names and address of the applicant (owner of the site) and the plumber
438 employed (when applicable).

439 (B) Legal description of the subject site by claim number, lot block and
440 recorded subdivision or by metes and bounds. All legal descriptions must
441 also include a plot 1/4-1/4 section description to the nearest forty (40) acres
442 (i.e.: NW 1/4 of the SE 1/4, Section 12, T23N-R19E).

443 (C) All lot dimensions.

444 (D) Driving directions to the site

445 (E) Building use (single, family, duplex, multi-family, commercial,
446 industrial, and Tribal roll number).

447 (F) Plot plan. Detailed plot plan dimensions are drawn to scale showing the
448 lot size; the location of all septic tanks; holding tanks or other treatment
449 tanks; building sewers—sanitary and storm; wells; water mains or water
450 service; streams and lakes; dosing or pumping chambers; distribution
451 boxes; effluent systems; dual disposal systems; replacement system areas;
452 and the location of the building served. Adjoining properties shall be
453 checked to insure that the site location distances and dimensions shall be

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- 454 shown on the detailed plot plan.
455 (G) Reference points. A vertical elevation reference point and a horizontal
456 reference point.
457 (H) Soil boring and percolation test data related to the undisturbed and
458 finished grade elevations, vertical elevation reference point and horizontal
459 reference point. Surface elevations, vertical elevation reference point and
460 horizontal point. Surface elevations shall be given for all soil borings. All
461 soil borings and percolation tests shall be performed by a State of
462 Wisconsin Certified Soil Tester.
463 (I) Occupancy. The maximum number of bedrooms in the residence shall
464 be indicated. The number of employees(full time and part time on an 8-
465 hour shift), estimated number of customers in an 8-hour shift, number of
466 washing machines and disposition of commercial/retail buildings.
467 (J) Other specifications. Complete specifications for pumps and controls
468 including dose volume, elevation differences (vertical lift), pipe
469 frictionless, pump performance curve, pump model manufacturer, and all
470 piping information.
471 (K) Any other information deemed necessary by the Environmental Health
472 and Safety Division.
- 473 (2) Pit privy permit applications shall be accompanied by soil data provided by a
474 State of Wisconsin-license certified tester to a depth of three feet (3') below the
475 proposed pit bottom. Soil data is not required when making application for a vault
476 privy. The property owner shall be furnished with a copy of the Tribal privy
477 construction requirements when the permit for a privy is issued.
- 478 (3) The Tribal Environmental Health and Safety Division reserves the right to
479 refuse incomplete or incorrect permit applications or to delay issuance until
480 corrected or completed applications are received.
- 481 (c) Permit Expiration
- 482 (1) Sanitary permits for private sewage systems, which have not been installed,
483 shall expire two (2) years after the date of issuance. Permits may be renewed
484 following written application to the Environmental Health and Safety Division by
485 the proper owner, his/her agent or contractor, prior to the expiration date of the
486 original permit.
- 487 (2) There shall be a fee for the renewal of a permit.
- 488 (3) The renewal shall be based on Oneida Sanitary Ordinance requirements in
489 effect to the time of renewal.
- 490 (4) Changed requirements may impede the renewal.
- 491 (5) The property owner, his/her agent, or contractor, shall return the original permit
492 card and receive a new card when the permit is renewed.
- 493 (6) All permits issued prior to the effective date of this law shall expire two (2)
494 years from issue date unless renewed.
- 495 (7) If a permit has expired and the owner wants to build on the site, a new sanitary

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496 permit must be obtained, and the site shall be subject to the currently existing
497 requirements, including any revisions made during the elapsed time period.

498 (d) Permit Replacement/Transfer

499 (1) If a sanitary permit is lost or destroyed, a replacement permit may be obtained
500 from the Environmental Health and Safety Division. The land owner shall submit a
501 written request, along with the permit replacement fee, to the Environmental
502 Health and Safety Division, and a new sanitary permit shall be issued prior to
503 installation of the system shall be subject to the following:

504 (A) The new property owner shall submit a written request to the
505 Environmental Health and Safety Division to transfer the permit.

506 (B) The sanitary permit card shall be returned to the Department so that a
507 new permit card may be issued.

508 (C) Transfer of ownership shall not affect the expiration date or renewal
509 requirements. Any changes other than transfer of ownership shall require a
510 new permit.

511 (D) The new property owner shall submit the permit transfer fee to the
512 Environmental Health and Safety Division.

513 (e) Building alteration permits

514 (1) A tribal building alteration permit shall be required when an existing private
515 sewage system is intended to serve a building which is to be remodeled such that
516 there will be an increase in the wastewater load from that building or where the
517 building is to be rebuilt or replaced with a new or different use or building.

518 (2) Prior to issuing a building alteration permit, the existing private sewage system
519 shall be examined. No permits will be issued unless the following conditions are
520 met:

521 (A) The system is functioning properly regarding the condition of the
522 system shall be provided.

523 (B) The systems will be capable of handling the proposed wastewater load
524 from the building to be served.

525 (C) The system will meet all minimum setback requirements of ILHR 83.

526 (3) Soil boring data to a depth of three feet (3') below the bottom of the existing
527 system shall be reported by a State of Wisconsin Certified Soil Tester. For all soil
528 absorption systems, a replacement system site shall be located for future use.

529 (4) Alteration of a building serviced by existing holding tanks will require an
530 updated Holding Tank Agreement, one (1) which meets the requirements of this
531 law. A copy of this completed agreement shall be attached to the permit.

532 (5) All systems shall be inspected by the Tribal inspector at the time of system
533 and/or building alteration to ensure that proper materials and methods are being
534 used.

535 (6) Reconnecting to an undersized system shall be allowed only if an affidavit for
536 the use of the undersized system is recorded in the Oneida Nation Register of
537 Deeds and an adequate area exists for a replacement system.

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538 (7) When a change in the use of a building or premises is contemplated, the
539 Environmental Health and Safety Division shall be contacted as to whether it shall
540 be necessary to obtain a sanitary permit or a building alteration permit.

541 (f) Change of plumbers

542 (1) A Tribal building alteration permit shall be required when an existing private
543 sewage system is intended to serve a building which is to be remodeled such that
544 there will be an increase in the wastewater load from the that building or where the
545 building which is to be remodeled such that there will be an increase in the
546 wastewater load from that building or where the building is to be rebuilt or
547 replaced with a new or different use or building.

548 (2) Prior to issuing a building alteration permit, the existing private sewage system
549 shall be examined. No permits will be issued unless the following conditions are
550 met:

551 (A) The system is functioning properly, pursuant to this law. A State of
552 Wisconsin Licensed Plumber's statement regarding the condition of the
553 system shall be provided.

554 (B) The system will be capable of handling the proposed wastewater load
555 from the building to be served.

556 (C) The systems will be capable of handling the proposed wastewater load
557 from the building to be served.

558 (3) Soil boring data to a depth of three feet (3') below the bottom of the existing
559 system shall be reported by a State of Wisconsin Certified Soil Tester. For all soil
560 absorption systems, a replacement system site shall be located for future use.

561 (4) Alteration of a building received by existing holding tanks will require an
562 updated Holding Tank Agreement, one (1) which meets their requirements of this
563 law. A copy of this completed agreement shall be attached to the permit.

564 (5) All systems shall be inspected by the Tribal inspector at the time of system
565 and/or building alteration to insure that proper materials and methods are being
566 used.

567 (6) Reconnecting to an undersized system shall be allowed only if an affidavit for
568 the use of the undersized system is recorded in the Oneida Nation Register of
569 Deeds and an adequate area exists for a replacement system.

570 (7) When a change in the use of a building or premises is contemplated, the
571 Environmental Health and Safety Division shall be contacted as to whether it shall
572 be necessary to obtain a sanitary permit or a building alteration permit.

573 (g) Change of Plumbers

574 (1) When an owner wishes to change plumbers, the owner must complete a Tribal
575 Change of Plumbers Form, signed by the new plumber. The form must be
576 submitted to the Environmental Health and Safety Division, along with the
577 applicable fees.

578 (2) The change of plumbers shall take place prior to the installation of the private
579 sewage system.

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- 580 (h) Modified Mound and Experimental System Permits
581 (1) Sanitary permits of modified mounds and experimental systems shall only be
582 approved for existing buildings. Not all sites are suitable for modified mounds and
583 experimental systems.
584 (2) Sanitary permits for modified mounds and experimental systems shall be
585 approved by the Environmental Health and Safety Division only on an individual
586 basis.
587 (3) Modified mounds and experimental system sanitary permit applications are
588 subject to all requirements of a regular sanitary permit, in addition to any
589 additional requirements deemed necessary by the Environmental Health and Safety
590 Division. Additional information may include, but is not limited to: more frequent
591 inspections, additional soil borings, groundwater monitoring or contour maps.
- 592 (i) Site Evaluation
593 (1) A site evaluation may be necessary to determine the suitability of a lot for a
594 private sewage system. Site evaluations will be made at the discretion of the
595 Environmental Specialist. The evaluation shall take place within ten (10) working
596 days of becoming aware of question of suitability and will be made prior to the
597 issuance of the sanitary permit. The site evaluation will result in one (1) of the
598 following:
599 (A) Issuance of the permit, provided all information on the application is
600 correct and complete.
601 (B) Holding the application pending clarification of information or new
602 information by the owner, the plumber or the certified Soil Tester.
603 (C) Denial of the permit if the site does not meet all the provisions of this
604 law.
605 (2) Soil test pits shall be constructed which allow adequate visual observations of
606 the soil provide in place. This is best accomplished by the construction of backhoe
607 pits. The test pits shall be left in such a manner that will permit access to them for
608 the evaluation of the soil protection were provided. Bore holes shall be either
609 fenced or closed within five (5) days of the date of inspection.
610 (3) Site evaluations shall be done prior to issuance of permits for a mound system.
- 611 (j) Permit Denial
612 (1) When an on-site evaluation of a proposed private sewage system or pit privy
613 reveals that the site is compliance with the requirements of this law, the permit
614 application shall be approved. Written justification of the denial must be supplied
615 to the owner of the Environmental Health and Safety Division within five (5)
616 working days of the decision.
- 617 (k) Holding Tank Agreements
618 (1) Prior to the issuance of a sanitary permit for the installation of a holding tank,
619 the owner of the holding tank, or his/her agent, shall sign and register a Holding
620 Tank Agreement with the Oneida Nation or a State of Wisconsin Licensed
621 Plumber. The purpose of the agreement is to ensure that the holding tank

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- 622 wastewater will be properly disposed of.
- 623 (2) Holding tank owner shall sign a servicing Contract with the Oneida Utilities for
- 624 sewage disposal and must comply with the following requirements:
- 625 (A) The holding tank owner shall sign a Servicing contract with the Oneida
- 626 Utilities for regularly scheduled servicing of the holding tank by the
- 627 Tribally-licensed septic tank pumper. Copies of the servicing contract shall
- 628 be attached to the holding tank agreement.
- 629 (B) The holding tanks shall be chained and locked at all times, and the
- 630 chain, lock and lock keys shall be the property of the Oneida Utilities, to
- 631 prevent unauthorized removal of the holding tank wastewater.
- 632 (C) The Oneida Utilities shall keep a log of the holding tank servicing
- 633 dates, owner's names and servicing locations, gallons serviced, and
- 634 disposal locations for all owner's names and servicing locations, gallons
- 635 serviced, and disposal locations for all holding tanks on registered
- 636 Servicing Contracts. This log shall be sent to the Environmental Health and
- 637 Safety Division by the 15th of every month, for the previous month's
- 638 activities.
- 639 (3) Holding tanks owners who contract with a Non-tribal Septic Tank Pumping
- 640 Service must comply with the following requirements:
- 641 (A) The holding tank owner shall sign a Servicing Contract with the Non-
- 642 tribal Septic Tank Pumping Service for regularly scheduled servicing of the
- 643 holding tanks copies of the Servicing contract shall be attached to the
- 644 Holding Tank Agreement.
- 645 (B) The holding tanks shall be chained and locked at all times.
- 646 (C) All Non-Tribal Septic Tank Pumping Services must meet the following
- 647 requirements:
- 648 (i) The Septic Tank Pumper must have a valid State of Wisconsin
- 649 license, and must meet all requirements of NR 113, Wisconsin
- 650 Administrative Code.
- 651 (ii) The Septic Tank Pumper must follow all of the Nation's
- 652 disposal requirements.
- 653 (D) The Non-tribal Septic Tank Plumber shall keep a log of the holding
- 654 servicing dates, owners names, and servicing locations, gallons serviced, an
- 655 disposal locations of all holding tanks on registered servicing contacts. This
- 656 log shall be sent to the Environmental Health and Safety Division by the
- 657 15th of every month, for the previous month's activities.
- 658 (4) The signed Holding Tank Agreement shall be binding upon the owner, the
- 659 heirs of the owner and assignees of the owner, or the authorized agent.
- 660 (5) Removal of the holding tank wastewater by persons other than those employed
- 661 by the Oneida Utilities, or those State of Wisconsin-licensed Septic Tank Plumbers
- 662 approved by the Environmental Health and Safety Division, shall constitute a
- 663 violation of this law. Such violations which occur on Tribally-leased land shall

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- 664 constitute a violation of the Tribal land lease.
- 665 (l) Maintenance Program
- 666 (1) All soil absorption system tanks shall be pumped by a Tribally-licensed or
- 667 State of Wisconsin-licensed septic tank pumper within two (2) years of the date of
- 668 installation and at least once every two (2) years thereafter, unless upon inspection
- 669 the tank is found to have less than one third (1/3) of the volume occupied by
- 670 sludge and scum.
- 671 (2) All private sewage systems installed after the date of adoption of this law shall
- 672 be inspected once every two (2) years for system compliance and tank integrity.
- 673 Additional inspections, or inspections of systems installed prior to the date of law
- 674 adoption, may be performed upon request by the system owner.
- 675 (3) Inspection of a private sewage shall be conducted by a Registered Sanitarian,
- 676 the Tribal Environmental Specialist, a Master Plumber, a Journeyman Plumber or a
- 677 Registered Plumber licensed by the State. Inspections may also be performed by
- 678 training program and have received authorization from the Nation. Re-certification
- 679 of the authorized tribal employees shall be required on a yearly basis, and shall be
- 680 provided by the Environmental Health and Safety Division. The inspections shall
- 681 be performed at the same time as the tank pumping.
- 682 (4) The owner of said soil absorption system shall submit information as to the
- 683 condition of the system and tank, and the date of pumping, to the Tribal
- 684 Environmental Health and Safety Division within ten (10) days of the date of
- 685 inspection of the tank is made by an authorized Tribal employee.
- 686 (5) The owner of a holding tank shall sign and register a Holding Tank Agreement,
- 687 as specified in section 407.5-1(i) of this law, and shall be subject to all
- 688 requirements stated in section 407.4-1(d)(1).
- 689 (6) Non-tribal Septic Tank Pumpers who are approved by the Environmental
- 690 Health and Safety Division to service on-site waste disposal systems must comply
- 691 with the following requirements:
- 692 (A) The Septic Tank Pumpers must have a valid State of Wisconsin license,
- 693 and must meet all requirements of NR 113, Wisconsin Administrative
- 694 Code.
- 695 (B) The Septic Tank Pumper must obtain a Tribal Vendor's Permit prior to
- 696 servicing any tanks.
- 697 (C) The Septic Tank Pumper must follow all of the Nation's disposal and
- 698 reporting requirements.
- 699 (m) Permit fees shall be set and periodically amended by the Oneida Business Committee.
- 700 Fees may be reduced by fifty percent (50%) if the inspections are performed by Indian
- 701 Health Service agents. All fees must accompany permit application. Fees are payable by
- 702 check to the "Oneida Nation". No out-of-state checks will be accepted. Failure to pay
- 703 permit fees constitutes a violation of this law. Applicable fees are as follows:
- 704 (1) Private Residential Building Sanitary Permit:
- 705 (A) Conventional soil absorption systems: \$20.00

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706	(B) In-ground pressure distribution system:	\$20.00
707	(C) Holding tanks:	\$20.00
708	(D) Mound systems, modified mound systems, at gate systems and	
709	experimental systems:	\$50.00
710	(2) Public and Commercial Building Sanitary Permits:	
711	(A) Conventional soil absorption systems:	\$45.00
712	(B) In-ground pressure distribution systems:	\$45.00
713	(C) Holding tanks:	\$90.00
714	(D) Mound systems, modified mound systems, at grade systems an	
715	experimental systems:	\$150.00
716	(3) Other Fees:	
717	(A) Sanitary renewal:	\$5.00
718	(B) Change of Plumber fee:	\$5.00
719	(C) Privy permits:	\$5.00
720	(D) Building alteration permit fees:	
721	Private Residential building	\$20.00
722	Public and Commercial buildings	\$45.00

- 723
- 724 **407.6-1. Inspections**
- 725 407.6-1. General
- 726 (a) All private sewage shall be inspected after construction and before backfilling. The
- 727 inspections shall be performed within the following work day excluding Saturdays,
- 728 Sundays, and holidays after receiving notice from the licensed plumber responsible for the
- 729 installation.
- 730 (b) A Tribal Site Inspection form shall be completed by the Environmental specialist or
- 731 Tribal inspector. A copy of the report shall be sent to the system owner.
- 732 407.6-2. Notice for inspection.
- 733 (a) The plumber employed to install the system shall notify the Environmental Specialist
- 734 in person, by telephone or in writing when the on-site waste disposal system is ready for
- 735 inspection.
- 736 (b) The owner shall be notified of regular inspections within twenty-four (24) hours of the
- 737 inspection. If the owner cannot be reached within the twenty-four (24) hour period, the
- 738 inspection shall continue as scheduled. No prior notification shall be required for
- 739 compliance inspections for holding tanks.
- 740 407.6-3. Preparation for inspection
- 741 (a) When an on-site waste disposal system is ready for inspection, the plumber employed
- 742 to install the system shall make such arrangements as will enable the Environmental
- 743 Health and Safety Division inspector to inspect all parts of the system.
- 744 (b) The plumber shall have present the proper apparatus and equipment for conducting the
- 745 inspection and shall furnish such assistance as may be necessary in making a proper
- 746 inspection.
- 747 407.6-4. Holding Tank Inspections

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748 (a) All site constructed holding tanks shall be inspected after the forms have been set and
749 reinforcing is in place; but before any concrete has been poured. Concrete may be poured
750 only after it has been determined that the tank, as formed, complies with the plans as
751 approved by the Department.

752 (b) This inspection shall not eliminate the need for an inspection after the installation has
753 been completed.

754 407.6-5. Privy Inspections

755 (a) All privies installed shall be inspected for compliance with this law. The home owner
756 or his agent shall notify the Environmental Health and Safety Division for inspection
757 immediately after the privy has been constructed.

758 (b) Privies may be inspected periodically after the initial inspection.

759 407.6-6. Mound Inspections

760 (a) All mound systems shall be inspected during construction by an inspector certified by
761 the Nation. The plumber installing the mound shall notify the Environmental Specialist
762 twenty-four (24) hours in advance of the installation. Four (4) inspections of the system
763 shall be made during the first year of the mound operation in accordance with Tribal
764 guidelines. Annual inspections may be made after the first year of operation, and may be
765 more frequent if deemed necessary by the Environmental Specialist.

766 407.6-7. Re-inspections

767 (a) The Environmental Specialist may require additional inspections other than the
768 inspection prior to backfilling, or if the initial inspection disclosed that the installation was
769 incomplete at the time the installer indicated it would be complete, or if the system was
770 not in conformance with the requirements stated in this law.

771 407.6-8. As-built Plans

772 (a) All on-site waste disposal systems installed, enlarged, modified, or expanded after the
773 adoption date of this law shall require as-built plans to be registered with the
774 Environmental Health and Safety Division.

775 (b) The plumber employed to install the system shall submit the as-built plans to the
776 Environmental Health and Safety Division within five (5) days of the installation of the
777 system.

778 (c) The as-built plans shall include all dimensions described in Section 407.5-1(b)(1)(F),
779 of this law. It shall also include the location of all manhole risers installed as part of the
780 system for which the as-built is being developed. The manhole covers and other portions
781 of the system shall be located from two (2) permanent points (i.e., corners of the building
782 served).

783 407.6-9. Covering of Work

784 (a) No part of the private sewage system may be backfilled until it has been inspected and
785 approved. If any part is covered before being inspected and approved it shall be uncovered
786 at the discretion of the Environmental Health and Safety Division inspector or Indian
787 Health Service Inspector.

788 407.6-10. Defects in Materials and Workmanship

789 (a) If inspection discloses defective material, design, siting or unworkmanlike construction
790 which does not conform to the requirements of this law, the nonconforming parts shall be

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791 removed, replaced and re-inspected.

792

793 **407.7. Administration and Enforcement**

794 407.7-1. Variances

795 (a) A request for a variance to the conditions or requirements of this law may be made to
796 the Environmental Specialist. The Environmental Specialist shall not have the authority to
797 approve any variance request. The Environmental Resource Board shall issue written
798 approval or denial of any variances requested.

799 (b) Parties disagreeing with the determination of the Environmental Resource Board may
800 contest the decision by filing a complaint to the Judiciary in accordance with section
801 407.7-5.

802 407.7-2. Violations

803 (a) Any person who violates any provision of this law is subject to penalties and
804 forfeitures provided for by this law and any resultant rules. Actions which constitute a
805 violation are described in, but not limited to, the following:

806 (1) Installing a new on-site waste disposal system without first obtaining a Tribal
807 Sanitary Permit.

808 (2) Modifying, altering, enlarging or constructing additions to an existing on-site
809 waste disposal system without first obtaining a Tribal Sanitary Permit or a
810 Building Alteration Permit.

811 (3) Servicing or removing sewage from an on-site waste disposal system tank
812 without a valid State of Wisconsin or Tribal license.

813 (4) Failing to obey any requirement of an Administrative Enforcement Order.

814 (5) Failing to properly display the Sanitary Permit card.

815 (6) Failing to disconnect a failing private on-site waste disposal system within the
816 Order. Building served by disconnected failing on-site systems shall be
817 reconnected to public sewer systems.

818 (7) Failing to connect a building served by a private on-site waste disposal system
819 to a public sewer system within the time allotted by section 407-4.1(f) of this law,
820 or the date stated in the Order.

821 (8) Installing, modifying, altering, enlarging or making additions to any part of an
822 on-site waste disposal system without a valid State Plumbing License. Privies are
823 exempt from this requirement.

824 (9) Failing to pay Tribal permit fees

825 (10) Failure to correct a failing on-site waste disposal system within three (3)
826 months of an Administrative Order. A failing on-site waste disposal system
827 constitutes a threat to public health.

828 (11) Failure to maintain a system through regularly scheduled pumping, pursuant
829 to holding tank agreement and maintenance program of this law. Failing to
830 maintain a holding tank through regularly scheduled pumping constitutes a threat
831 to public health.

832 407.7-3. Administrative Orders

833 (a) The Environmental Specialist may issue an Administrative Enforcement Order when a

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834 violation of any provision of this law occurs, to provide the owner or agent the
835 opportunity to bring their action into compliance with the provisions of this law.

836 (b) The Order shall be given to the party responsible for the violation and shall state the
837 nature of the violation, possible penalties for failure to correct, and shall state the right to
838 contested the matter with the Oneida Judiciary.

839 407.7-4. Penalties

840 (a) The Environmental Resource Board is hereby granted administrative rulemaking
841 authority to establish penalties for violations of this law. Except as provided in section
842 407.5-5(b), forfeitures for violations shall amount to not less than ten dollars (\$10) and not
843 greater than fifty dollars (\$50) per violation. Each day such violation continues constitutes
844 a separate offense.

845 (b) Forfeitures for violations which constitute a threat to public health shall not be less
846 than fifty dollars (\$50) and not more than two hundred dollars (\$200) per violation. Each
847 day such violation continues constitutes a separate offense.

848 407.7-5. Appeal Permit Decision. Any person wishing to contest a decision of the Department
849 related to a permit may appeal such action by filing a complaint with the Judiciary Trial Court
850 naming the Department.

851 407.7-6. Contested Action Hearings. All citations, penalties, forfeitures, orders and declarations
852 issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which
853 shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the
854 citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which
855 time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act
856 for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as
857 possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing,
858 for all persons entering a plea contesting the fact that they committed the act for which a citation
859 was issued. In addition to scheduling requested hearings, the Judiciary may also make conditional
860 orders at the prehearing which are effective until the matter is resolved.

861 (a) *Community Service*. Community service may be substituted for fines at the Judiciary's
862 discretion, provided that, if so substituted, the Judiciary shall use the rate of one (1) hour
863 per ten dollars (\$10.00) of the fine.

864 (b) *Allocation of Citation Revenue*. All fines and penalties issued by citations are payable
865 to the Environmental Resource Board or its designee, the proceeds of which the
866 Environmental Resource Board shall contribute to the Nation's general fund.

867 (c) *Appealing the Decision of the Judiciary Trial Court*. Any person wishing to contest
868 the determination of the Judiciary Trial Court may appeal the applicable determination to
869 the Judiciary's Court of Appeals in accordance with the Rules of Appellate Procedure.

870 (d) *Pursuing Payment of a Citation*. The Environmental Resource Board may pursue
871 payment from parties who have failed to make the required payments through the
872 garnishment process contained in the Garnishment law and/or by attaching a Tribal
873 member's per capita payment pursuant to the Per Capita law.

874 407.7-7. Severability

875 (d) Conflict with Federal Law. Should any part of this ordinance be found to be in conflict
876 with federal requirements which are required in order that the Oneida Nation receive

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877 federal funds, the conflicting section of this law is to be considered inoperative only for
878 purposes of that particular funding and that inoperative only for purposes of that particular
879 funding and that particular conflict. Such conflict shall not affect the operation of the
880 remainder of this law in its application to those agencies or departments directly affected.

881 407.7-8. Waiver of liability

882 (a) This law shall not create a liability on the part of or a cause of action against the
883 Nation, or any employee thereof, for any private on-site sewage treatment system which
884 may not function as designed. There shall be no liability of warranty for any site which is
885 approved or denied. The issuance of a sanitary permit and the formal inspection of such a
886 system does not warrant the system's function, nor is there a guarantee that the system is
887 free of defects or that all aspects of the system comply with the requirements or this
888 ordinance.

~~889~~

891 Adopted - BC-10-28-88-A

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Title 4. Environment and Natural Resources - Chapter 407
ON-SITE WASTE DISPOSAL ORDINANCE
Tsi? Yeyakotyetáhkwa Olihwá'ke
The matters concerning where the garbage is kept

~~407.1. Introduction~~
~~407.2. Adoption, Amendment and Repeal~~
~~407.3. Definitions~~
~~407.4. General Requirements~~

~~407.5. Permits and Applications~~
~~407.6. Inspections~~
~~407.7. Administration and Enforcement~~

~~407.407.1 Introduction~~
~~407.2 General Requirements~~

~~407.3 Permits and Applications~~
~~407.4 Inspections~~
~~407.5 Administration and Enforcement~~

407.1. Introduction.1. Introduction

401.1-1. Applicability. This Ordinance law shall apply to all Oneida Tribal Entities, the Oneida Tribe Nation itself, and members of the Oneida Tribe of Indians of Wisconsin Nation within the exterior boundaries of the Oneida Tribe of Indians of Wisconsin Nation Reservation.

407.1-2.- Purpose. The purpose of this Ordinance law is to establish regulations to ensure that private on-site sewage treatment systems will fulfill Oneida Tribal goals for improving environmental health and safety. The regulations herein will set forth procedures for administration of the program; general requirements for proper siting, design, installation, inspection, and maintenance of the systems; limitations of private systems; and enforcement mechanisms and procedures. The ultimate intent of this ordinance law is to support the Oneida belief of taking care of Mother Earth. As unforeseen events may arise which are not specifically addressed in this ordinance law, this stated intent, along with the following basic principles, should define a course of action for unforeseen events.

(a) NEED-Every building intended for human habitation or occupancy shall be provided with a properly functioning system for treatment and disposal of domestic waste.

(b) PUBLIC SEWERS-When public sewers become available to any building intended for human habitation or occupancy, the use of the private sewage system shall be discontinued within that period of time required by order, but not exceed one (1) year. The owner shall be required to connect to public sewers sooner than the one (1) year date if the system meets the definition of a failing system. When funding for the connection is available, the owner shall be required to connect sooner than the one (1) year date, and the connection shall be made form the private sewage system and be connected to the public sewers sooner than the one (1) year date if the system meets the definition of a failing system. When funding for the connection sooner than the one (1) year date, and the connection shall be made according to the contractor's construction schedule. The building sewer shall be disconnected from the private sewage system and be connected to the public sewer. All abandoned treatment tanks and seepage pits shall have the contents pumped and disposed of in accordance with chapter NR 113, Wisconsin Administrative Code. The top or the entire tank shall be removed and the remaining portion of the tank

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30 or excavation shall be immediately filled with clean, suitable soil material.

31 (c) DISCHARGES/FAILING SYSTEMS-Every private sewage system shall be
32 designed, located and constructed to prevent ponding of effluent within the soil
33 absorption system or any discharge or sewage into drain tiles, onto the ground surface,
34 into the structure served, or into the surface waters or groundwater within the exterior
35 boundaries or adjacent to the Oneida ~~Tribe of Indians of Wisconsin~~ Nation Reservation
36 including zones of seasonal soil saturation.

37 (d) MAINTENANCE-Every private sewage system shall be adequately maintained.

38 (e) NUISANCE-Every private sewage system shall be designed and constructed to
39 adequately dispose of all the wastewater generated in the structure or facility it is serving.
40

41 ~~407.1-3. This Ordinance is adopted 2.~~ **Adoption, Amendment and implemented**
42 **through Repeal**

43 ~~407.2-1. This law was adopted by the authority granted [Oneida Business Committee or Oneida~~
44 ~~General Tribal Council] by resolution BC-10-28-88-A and amended by resolution~~
45 ~~_____.~~

46 ~~407.2-2. This law may be amended or repealed by the Oneida Tribe of Indians of~~
47 ~~Wisconsin, Business Committee and/or Oneida General Tribal Council pursuant to the Oneida~~
48 ~~procedures set out in the Legislative Procedures Act.~~

49 ~~407.2-3. Should a provision of this law or the application thereof to any person or~~
50 ~~circumstances be held as invalid, such invalidity shall not affect other provisions of this law~~
51 ~~which are considered to have legal force without the invalid portions.~~

52 ~~407.2-4. In the event of a conflict between a provision of this law and a provision of another~~
53 ~~law, the provisions of this law shall control.~~

54 ~~407.2-5. This law is adopted under authority of the Constitution, Part 4, Section of the Oneida~~
55 ~~Nation.~~

56
57 **407.3. Definitions**

58 ~~407.3-1.(F).~~

59 ~~407.1-4.~~ For the purposes of this ~~ordinance~~ law, the following definitions shall apply. All other
60 words shall be defined according to dictionary reference.

61 (a) ~~APPROVED~~ **“Approved” means** accepted or ratified by the Environmental
62 Health ~~Department~~ and Safety Division.

63 (b) ~~AS-BUILT PLAN~~ **“As-Built Plan” means** a final plan of any system as
64 installed.

65 (c) ~~AVAILABILITY OF PUBLIC SEWERS~~ **“Availability of Public Sewers”**
66 **means** when a public sewer line either passes in front of a lot line or comes within
67 ~~200~~ **two hundred** feet (**200'**) of a lot line, availability of the public sewers for servicing
68 buildings on the lot is established.

69 (d) ~~BEDROCK~~ **“Bedrock” means** the rocks that underlie soil materials or are at the
70 earth's surface. Bedrock is encountered when the weathered in-place consolidated
71 material, ~~larger~~ than ~~2mm~~ **2 mm** in size, is greater than ~~fifty percent~~ (**50%%**) by volume.

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- 72 | (e) ~~BUILDING~~ “Building” means -a structure having walls and a roof erected or
73 | set upon an individual foundation or slab-constructed base designed or used for the
74 | housing, shelter, enclosure or support of any kind, which is intended for human habitation
75 | or occupancy. A mobile home is included in this definition. Each structure abutting
76 | another structure which does not have an ingress-egress doorway through the basement
77 | foundation walls, or structures with separate exterior or exterior abutting walls, or public
78 | use structures separated by an unpierced firewall, shall be considered as separate or
79 | individual building.
- 80 | (f) ~~CESSPOOL~~ “Cesspool” means a covered excavation in the ground which
81 | receives sewage or other organic matter and solids, permitting the liquids to seep into the
82 | soil cavities. Cesspools are prohibited.
- 83 | (g) ~~CLEANOUT~~ “Cleanout”- means a plug or cover made of material approved by
84 | the Department, joined by means of a screw thread to an opening in a pipe, which can be
85 | removed for the purpose of cleaning or examining the interior of the pipe.
- 86 | (h) ~~CLEANWATER WASTES~~ (h) “Cleanwater Wastes” means cooling water and
87 | condensate drainage from refrigeration compressors and air-conditioning equipment,
88 | water used for impurities have been reduced below a minimum concentration considered
89 | harmful, and cooled condensate from steam heating systems or other equipment.
- 90 | (i) ~~COLOR~~ “Color” means the moist color of the soil based on Munsell soil color
91 | charts.
- 92 | (j) ~~COMMUNITY ON-SITE WASTE DISPOSAL SYSTEM~~ “Community On-Site
93 | Waste Disposal System” means an on-site waste disposal system servicing more than one
94 | (1) building being served. A community sewage system may be owned by the property
95 | owners, the TribeNation, or special purpose district.
- 96 | (k) ~~CONVENTIONAL SOIL ABSORPTION SYSTEM~~ (k) “Conventional Soil
97 | Absorption System” means a system that employs gravity flow from the septic or other
98 | treatment tank and applies effluent to the soil through the use of a seepage trench, bed or
99 | pit.
- 100 | (l) ~~DEPARTMENT~~ “Department” means the Oneida Tribal Environmental Health
101 | Department and Safety Division.
- 102 | (m) ~~DETAILED SOIL MAP~~ (m) “Detailed Soil Map” means a map prepared by or
103 | for a state of federal agency participating in the national cooperative soil survey showing
104 | soil series, type and phases at a scale of not more than 2,000 feet to the inch and includes
105 | related explanatory information.
- 106 | (n) ~~DOSING TANK~~ “Dosing Tank” means a tank used for the collection of sewage
107 | effluent from a septic or solids tank. The effluent is pumped form the dosing tank to a soil
108 | absorption field.
- 109 | (o) ~~DWELLING UNIT~~ “Dwelling Unit” means one (1) or more rooms with
110 | provisions for living, sanitary and sleeping facilities which are used or intended to be
111 | used by one (1) person or by two (2) or more persons maintaining a common household.
- 112 | (p) ~~EFFLUENT~~ “Effluent” means liquid discharge from a septic or other treatment
113 | tank.

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- 114 | (q) ~~EXISTING-~~ “Existing” means prior to the adoption date of this ordinance law.
 115 | ~~(r) EXPERIMENTAL SYSTEM-~~ (r) “Experimental System” means an on-site
 116 | wastewater treatment system designed to overcome site limitation which would preclude
 117 | the installation of any of the standard soil absorption systems defined in this
 118 | ordinance law. Not all sites are suitable for experimental systems.
 119 | ~~(s) FAILING PRIVATE SEWAGE SYSTEM-~~ “Failing Private Sewage System”
 120 | means a failing private sewage system is one (1) which causes or results in any or the
 121 | following conditions:
 122 | ~~(1.)~~ The failure to accept sewage discharges resulting in the back up of sewage
 123 | into the structure served by the private sewage system.
 124 | ~~(2.)~~ The discharge of sewage to the surface of the group or to a drain tile.
 125 | ~~(3.)~~ The discharge of sewage to any waters within the exterior boundaries or
 126 | adjacent to the Oneida Tribe of Indians of Wisconsin Nation Reservation.
 127 | (4) The introduction of effluent into zones of saturation which adversely affects
 128 | the operation of a private sewage system.
 129 | ~~(5.)~~ The ponding of effluent within the soil absorption system.
 130 | ~~(t) GREASE INTERCEPTOR-~~ (t) “Grease Interceptor” means a watertight tank which
 131 | is installed underground for the collection and retention of grease from cooking of food
 132 | processing and which is accessible for periodic removal of the contents.
 133 | ~~(u) HIGH GROUNDWATER ZONES-~~ (u) “High Groundwater” means zones of soil
 134 | saturation which include: Perched water tables, shallow regional groundwater tables or
 135 | aquifers, or zones that are seasonally, periodically or permanently saturated. Unless
 136 | otherwise proven, the presence of soil mottles indicates the level of seasonal saturation.
 137 | ~~(v) HOLDING TANK-~~ “Holding Tank” means an approved watertight receptacle
 138 | for the collection and holding of sewage, which requires pumping by a licensed sanitary
 139 | hauler.
 140 | ~~(w) INDOOR PLUMBING-~~ one “Indoor Plumbing” means one (1) plumbing fixture
 141 | constitutes an indoor plumbing system.
 142 | ~~(x) IN-GROUND PRESSURE DISTRIBUTION SYSTEM-~~ (x) “In-Ground Pressure
 143 | Distribution System” means a pressurized soil absorption system placed entirely within
 144 | the natural soil and based on the mound system design.
 145 | ~~(y) LEGAL DESCRIPTION-~~ (y) “Legal Description” means inaccurate Metes and
 146 | Bounds description, a claim number, a lot and block number in a recorded subdivision, a
 147 | recorded assessor’s plat or public land survey description to the nearest forty (40) acres in
 148 | 1/4-1/4 sections (ie: NW 1/4 of the NE 1/4, Section 10, T24N-R18E).
 149 | ~~(z) MOBILE HOME-~~ “Mobile Home” means a transportable structure mounted on a
 150 | chassis and designed to be used with or without a permanent foundation as a dwelling as
 151 | a dwelling unit. The phrase “without a permanent foundation” indicates that the support
 152 | system is constructed with the intent that the mobile home thereon may be moved from
 153 | time to time at the convenience of the owner.
 154 | ~~(aa) MODIFIED MOUND SYSTEM-~~ (aa) “Modified Mound System” means a soil
 155 | absorption system which utilized pressured distribution of the effluent and sandy fill

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- 156 materials to overcome sites with specific limiting conditions. The limiting conditions are:
157 (1) Depth to seasonal high groundwater of 24 to 54 inches with percolation rates
158 of 0 to 180 minutes per inch.
159 (2-) Depth to seasonal high groundwater of 12 to 54 inches with
160 ~~percolatin~~percolation rates of 0 to 120 minutes per inch.
- 161 (bb) ~~MOUND SYSTEM~~ “Mound System” means a system which utilized
162 pressurized distribution of the effluent and sandy fill conditions are:
163 (1) Depth to fractured bedrock of ~~24 to 54~~twenty-four inches ~~(24”)~~ to fifty-four
164 inches (54”) with percolation rates of ~~zero~~ (0) to ~~sixty~~ (60) minutes per inch
165 (2) Depth to seasonal high groundwater levels of ~~24 to 54~~twenty-four inches ~~(24”)~~
166 to fifty-four inches (54”) with percolation rates between ~~zero (0 to)~~ and one
167 hundred twenty (120) minutes per inch.
- 168 (cc) ~~NUISANCE~~ “Nuisance” means -any source of filth, odor or probable cause of
169 sickness, as is described in Wisconsin Statue 146.14
- 170 (dd) ~~ONEIDA TRIBE~~ “Oneida Tribe of Indians of Wisconsin is Nation” means
171 Oneida Nation, a federally recognized Indian government and a Treaty Tribe recognized
172 by laws of the United States.
- 173 ~~(ee) ON-SITE WASTE DISPOSAL SYSTEM~~ (ee) “On-Site Waste Disposal System”
174 means a sewage treatment disposal system serving a single building with a septic tank
175 and soil absorption field located on the same parcel as the building. This term also means
176 an alternative substitute for the septic tank or soil absorption field, a holding tank, a
177 system serving more than one (1) building, or a system located on a different parcel than
178 the building, or a system located on a different parcel than the building. A private sewage
179 system may be owned by the property owner or by a special purpose district.
- 180 (ff) ~~PERCOLATION TEST~~ “Percolation Test” means the method used for testing soil
181 absorption qualities, as described in ILHR 83,09(5), Wisconsin Administrative Code. All
182 soil Wisconsin-licensed Certified Soil Testers.
- 183 (gg) ~~PERMEABILITY~~ “Permeability” means the ease with which liquid move
184 through the soil. One (1) of the soil qualities listed Certified Soil Testers.
- 185 (hh) ~~PLUMBER~~ “Plumber” means a person licensed by the State of Wisconsin as a
186 Master Plumber or Master Plumber Restricted Sewer Services-, as described in
187 Wisconsin State Statute 145.01
- 188 ~~(ii) PRESSURE DISTRIBUTION SYSTEM~~ (ii) “Pressure Distribution System”
189 means a soil absorption system that employs a pump or automatic siphon and small
190 diameter distribution pipping with small diameter perforations to introduce effluent into
191 the soil. Plan review and departmental approval is required for each system of this type.
192 Approval will only be given on a case by case basis. Approval shall only be given on an
193 individual basis.
- 194 (jj) ~~PRIVY~~ “Privy” means a structure that is not connected to a plumbing system,
195 which is used by persons for the deposition of human body wastes.
- 196 (kk) ~~PRIVY PIT~~ “Privy-Pit” means a privy with earthen sidewalls and/or bottom.
197 The privy shall be so constructed as to be insect and rodent proof as described in ILHR

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- 198 53.63, Wisconsin Administrative Code
199 (ll) ~~PRIVY VAULT~~ “Privy-Vault” means a privy with watertight vault consisting of
200 one (1) of the following:
201 (1) concrete sidewalls and bottom(poured in place)
202 (2) a prefabricated concrete tank
203 (3) an asphalt coated steel tank
204 (A) The tank shall be constructed insect and rodent proof per ILHR 52.63
205 Wisconsin administrative Code.
206 (mm) ~~PUBLIC SEWERS~~ “Public Sewers” means a wastewater treatment system
207 which utilizes collection of the sewage through underground sewer pipes, which all flow
208 to one (1) collection station, where the wastewater is then treated. Public sewers provide
209 service to more than one (1) residence, and each residence is charged a fee for wastewater
210 collection and treatment.
211 (nn) ~~SEEPAGE BED~~ “Seepage Bed” means an excavated area larger than 5 five feet (5’)
212 in width which contains a bedding of aggregate and has more than one (1) distribution
213 line.
214 (oo) ~~SEEPAGE PIT~~ “Seepage Pit” means an underground receptacle so constructed as
215 to permit disposal of effluent or clear wastes by soil absorption through its flood and
216 walls.
217 (pp) ~~SEPTIC TANK~~ “Septic Tank” means a tank which receives and partially treats
218 sewage, through processes of sedimentation, oxygenation, flotation and bacterial action
219 so as to separate solids from liquid in the sewage, and discharges and public buildings.
220 (qq) ~~SEWAGE~~ “Sewage” means the liquid and water carried wastes created in and
221 conducted away from residences, industrial establishments and public buildings.
222 (rr) ~~SOIL~~ “Soil” means the unconsolidated material over bedrock.
223 (ss) ~~SOIL ABSORPTION~~ “Soil Absorption” means any sewage treatment system
224 which has a solid separation tank and utilizes distribution of the sewage effluent to
225 unsaturated soil for treatment. Systems included in this ~~definitions~~definition are:
226 conventional septic’s, mounds, in-ground pressure distribution, at-grade, etc.
227 (tt) ~~SOIL BORING~~ “Soil Boring” means an observation pit dug by hand or backbone,
228 a hole dug by auguring or a soil core taken intact and undisturbed with a probe.
229 (uu) ~~SOIL MOTTLES~~ “Soil Mottles” means spots or streaks of contrasting soil
230 colors usually caused by soil saturation for some period of a normal year. Soil mottles are
231 used as indicators of the seasonal high groundwater level.
232 (vv) ~~SOIL SATURATION~~ “Soil Saturation” means the state when all the pores in a
233 soil are filled with water. Water will flow from saturated soil into a bore hole.
234 (ww) ~~TOPSOIL~~ “Topsoil” means the undisturbed surface horizon of a soil often
235 characterized by a clack or dark grayish brown color due to a higher content of organic
236 matter.
237 (xx) ~~TRIBAL VENDOR’S PERMIT~~ “Tribal Vendor's Permit” means a permit issued by
238 the Environmental Health ~~Department~~and Safety Division for the installation of a private
239 sewage system.

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240 | (yy) ~~VENT CAP~~ “Vent Cap” means an approved appurtenance used for covering the
241 | vent terminal of a soil absorption system, to avoid closure by mischief or debris, and still
242 | permit circulation of air within the system.

243 | (zz) ~~WORKMANSHIP~~ “Workmanship” means work of such character that will
244 | fully secure the results sought in all the sections of this ordinance law as intended for the
245 | safety, welfare and health protection of all individuals.
246 |

247 | **407.2-4. General requirements. Requirements**

248 | 407.24-1.

249 | (a) Every building or structure intended for human habitation or occupancy, within the
250 | scope of applicability of this ordinance law, shall have a Tribally-approved on-site private
251 | sewage treatment system or be connected to a public sewer system. Such systems shall be
252 | approved on-site private sewage treatment system or be connected to a public sewer
253 | system. Such systems shall be approved only if no public sewers are available to service
254 | said buildings. Unless specifically approved by the Tribe Nation, the private sewage
255 | system to each building. A private sewage system may be owned by the property owner
256 | or by a special purpose district. The use of a community on-site waste disposal system or
257 | a system on a different parcel than the structure shall be subject to the same permit
258 | requirements and procedures as for systems serving public buildings. The private sewage
259 | system for newly constructed buildings shall be installed, inspected and approved before
260 | the building can be occupied.

261 | (b) The type of on-site waste disposal system approved for use on a site shall be
262 | dependent upon site conditions. Approvable Approvable types of on-site waste disposal
263 | systems are:

- 264 | (1) Conventional soil absorption systems
- 265 | (2) In ground pressure distribution systems
- 266 | (3) Mound systems
- 267 | (4) Modified mound systems
- 268 | (5) At-grade systems
- 269 | (6) Holding tanks
- 270 | (7) Privies (pit and vault)

271 | Approvable Approvable systems are not limited to this list, but systems not included on
272 | this list may only be approved by the Environmental Health Department and Safety
273 | Division on an individual basis.

274 | (c) Additional restrictions

- 275 | (1) Domestic waste-all water carried wastes derived from ordinary living uses
276 | shall enter the septic or treatment tank or be discharged to a public or municipal
277 | treatment system.
- 278 | (2) Water supply-all new buildings intended for human habitation or occupancy
279 | shall be provided with a well and water supply system.
- 280 | (3) Cesspools-cesspools are prohibited.
- 281 | (4) Clear water-The discharge of surface, rain and other clear water into a private

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282 sewage system is prohibited.

283 (5) Water shortener and iron filter backwash-Water softener of iron filter
284 discharge may be directed to the private sewage system, a separate below ground
285 surface soil absorption system or to the ground surface it a nuisance is not created.

286 (6) Floodplain-On-site waste disposal systems for new buildings will not be
287 approved for construction within the floodplain. Existing buildings may have a
288 system approved in the flood fringe subject to Departmental approval on an
289 individual basis. All systems shall be flood-proofed to a height of at least two ~~(2)~~
290 feet (2') above the one hundred (100) year flood elevation.

291 (d) Holding Tanks

292 (1) Holding tanks will not be approved to service any new residential construction.
293 Holding tanks shall only be approved under the following circumstances:

294 (A) As a temporary method of waste containment until public sewers are
295 available, not to exceed two (2) years from the date of installation.
296 Extended use of the holding tanks beyond the two (2) year period will
297 require a permit for the Environmental Health Department and Safety
298 Division. The holding tanks shall be disconnected and a connection shall be
299 made upon availability of the public sewer system, and the tanks properly
300 abandoned in the manner as is described in ILHR 83, Wisconsin
301 Administrative Code.

302 (B) As a replacement system for existing filing soil absorption systems.
303 Holding tanks shall be approved only if no other soil absorption system can
304 be approved for the site.

305 (C) As an interim measure when there are delays in funding from outside
306 funding agencies. The site must have received written approval for an on-
307 site soil absorption system, and funding must have been appropriated to
308 cover all installation costs. The system must be completed as soon as the
309 funding is made available.

310 (D) As an interim measure for construction reason. If an approved soil
311 absorption system is being constructed, and progress on construction is
312 halted severe weather (ie, winter frost conditions), then holding tanks may
313 be installed and used only until construction of the soil absorption system
314 can be permitted. The existing residence must be constructed and occupied
315 prior to adoption of this ordinance law.

316 (E) For an existing residence where no other soil absorption system can be
317 permitted. The existing residence must be constructed and occupied prior to
318 adoption of this ordinance law.

319 (F) For new construction of commercial buildings only where no other soil
320 absorption system can be permitted.

321 (e) Privies

322 (1) Privies are prohibited for all new residential construction.

323 (2) Privies may be permitted only when the existing building served by the privy is

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- 324 | not provided with an indoor plumbing system. One (1) plumbing fixture
325 | constituted indoor plumbing.
- 326 | (3) All privies must meet the site requirements as described in IRHR 83.10,
327 | Wisconsin Administrative Code.
- 328 | (4) When system upgrade becomes available or indoor plumbing is installed, then
329 | privy must be properly abandoned, and the building must be connected to an
330 | approved on-site waste disposal system or a public sewer system.
- 331 | (5) All chemical, gas electrical, composting and other non-water using toilets must
332 | comply with all requirements of privies.
- 333 | (f) Public Sewer Connection
- 334 | (1) When public sewers become available to any buildings intended for human
335 | habitation or occupancy, the use of the private sewage system shall be
336 | discontinued within that period of time required by order, but not to exceed one (1)
337 | year. The building sewer shall be disconnected from the private sewage systems
338 | and be connected to the public sewer.
- 339 | (2) The owner shall be required to connect to public sewers sooner than the one (1)
340 | year date if the existing private sewage system meets the definition of a failing
341 | system.
- 342 | (3) When funding for the connection is available, the owner shall be required to
343 | connect to the public sewer sooner than the one (1) year date. The connection shall
344 | be made according of the contractor's construction schedule.
- 345 | (4) All abandoned treatment tanks and seepage pits shall have the contents pumped
346 | and disposed of in the same manner as is designated in Chapter NR 113,
347 | Wisconsin Administrative Code. The top or entire tank shall be removed and the
348 | remaining portion of the tank or excavation shall be immediately filled with clean,
349 | suitable soil material.
- 350 | (g) Failing systems
- 351 | (1) When a failing or malfunctioning private sewage system is encountered, the
352 | sewage disposal system shall be corrected or its use discontinued within that
353 | period of time required by departmental order, with a maximum time limit of one
354 | (1) year. A failing system is identified when one (1) or more of the following
355 | conditions apply:
- 356 | (A)The failure of the private sewage system to accept sewage discharges
357 | and or there is back-up of the sewage to the structure the system services.
- 358 | (B)The discharge of sewage to the surface of the ground or to a drain tile.
- 359 | (C)The discharge of sewage to any waters within the exterior boundaries or
360 | adjacent to the operation of private sewage system.
- 361 | (D)The introduction of effluent into zones of saturation which adversely
362 | affects the operation of private sewage system.
- 363 | (E)The ponding of effluent within the soil absorption system.
- 364 | (h) Incorporation of provisions by reference
- 365 | (1) This chapter incorporates by reference the following rules, regulations and

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- 366 laws, as set forth in the Wisconsin Statutes and the Wisconsin Administrative Code
367 governing the location, construction and use of the private sewage systems.
368 (A) State Statutes: 59.065, 59.07(51), 144, 145, 146.13, 146.14, and 968.10
369 (B) Wisconsin Administrative Codes: NR 113; ILHR 82 and ILHR 83.
370 (2) These rules, regulations and laws shall be available upon request from the
371 Environmental Health ~~Department~~ and Safety Division.
372 (3) These rules, regulations, and laws shall be used for purposes of this
373 ordinance law only, and shall apply until amended or renumbered and then shall
374 apply as amended or renumbered.
375 (4) References in these codes as to the responsibilities of the "State", "Department",
376 "Department of Natural Resources", and "County" shall be directed to the "Oneida
377 Tribe Nation" and to the "Oneida ~~Tribal~~ Environmental Health ~~Department~~ and
378 Safety Division".
- 379 (i) Administration
380 (1) The Oneida Tribal Environmental Specialist shall be responsible for the
381 administration of this ordinance law. The Environmental Specialist may delegate
382 responsibilities to personnel employed by or assigned to assist the Environmental
383 Specialist.
- 384 (j) Powers and Duties
385 (1) In administering this ordinance law, the Environmental Specialist shall have the
386 following powers and duties:
387 (A) Perform duties, and delegate duties as may be required, to personnel
388 assigned to or employed to assist the Environmental Specialist, to assure
389 full and complete compliance with this ordinance law.
390 (B) Provide assistance to applicants preparing permit applications, and
391 advise said applicants regarding provisions of this ordinance law.
392 (C) Review and approve plans for private on-site sewage treatment
393 systems.
394 (D) Issue permits and perform site inspections for compliance with this
395 ordinance law.
396 (E) Keep records of all permits issued, inspections made, work approved
397 and other official actions.
398 (F) Report violations of this ordinance law or other land use regulations to
399 the Tribal office designated by the Oneida Business Committee, as
400 provided for in the Administrative Procedures Act.
401 (G) Have access to any premises for the purposes of performing said duties
402 between 8:00 a.m. and 8:00 p.m. or at other times set by mutual agreement
403 between the property owner or their agent and the Environmental
404 Specialist. Application for permit is considered, for the purposes of this
405 ordinance law, as the owner's consent to enter the premises.
406 (H) Upon reasonable cause or question as to proper compliance, revoke any
407 Tribal sanitary permit and issue cease and desist orders requiring the

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408 cessation of any construction, alteration or use of a building which is in
409 violation of the provisions of this ordinancelaw, until compliance with this
410 ordinancelaw is obtained.

411 (I) Issue and enforce orders to plumbers, property owners, their agents or
412 contractors of the responsible party, to assure proper owners, their agents or
413 contractors of the responsible party, to assure proper compliance with all
414 provisions of this ordinancelaw. The Environmental Specialist may
415 delegate this authority to the Tribal office designated by the Oneida
416 Business committee, as provided for in the Administrative Procedures Act.

417 (2) Violations of this ordinancelaw which occur on leased land will be reported to
418 the Oneida Land Office and the Oneida Land Office and the Oneida Law Office
419 because said violations may constitute violations of the Tribal Land Lease.

420 (k) Repeal and effective date

421 (1) Tribal sanitary permits are obtained through the Oneida Environmental Health
422 Department and Safety Division. Completed application shall be submitted for
423 review to the Oneida tribal environmental Specialist. The permit shall be reviewed
424 and processed with two (2) weeks of receiving the completed application package,
425 except in the case of modified mound an experimental systems which may take
426 longer to review.

427 (2) Every on-site waste disposal system installed, expanded, modified, or enlarged
428 after the adoption date of this ordinancelaw shall require a Tribal Sanitary Permit.

429 (3) When a change of ownership occurs, the owner of system shall have the system
430 inspected by a State of Wisconsin Licensed Plumber, Registered Sanitarian or
431 other person accepted by the Environmental Health Department and Safety
432 Division.

433 (4) A Tribal sanitary permit shall be obtained by the property owner, his/her agent
434 or contractor, in the name of the property owner, prior to the construction of any
435 building which requires a private sewage system. Any property owner, his/her
436 agent or contractor, who starts construction on a building, prior to obtaining a
437 Tribal sanitary permit, is in violations and my may be subject to the penalties
438 provided in this ordinancelaw.

439 (5) Before any private sewage system may be installed, enlarged, altered, modified
440 or additions constructed, a Tribal sanitary permit must first be obtained by the
441 property owner, his/her agent or contractor. Failure to comply with this
442 requirement constitutes a violation of this ordinancelaw. Violations which occur on
443 leased land may also constitute violations of the Tribal land lease.

444 (6) A Tribal sanitary permit shall be obtained prior to constructing or erecting a
445 privy.

446 (7) If any part of a system has failed, the entire system shall be evaluated for
447 compliance with existing codes.
448

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449 | ~~407.3-5.~~ **Permits and Applications.**

450 | ~~407.35-1.~~

451 | (a) Permit Codes

452 | (1) The permit card issued by the Environmental Specialist to the property owner
453 | or his/her agent shall serve as the Tribal sanitary permit.

454 | (2) The permit card shall be displayed at the site in such a manner that it will be
455 | visible from a road abutting the lot during all construction phases.

456 | (3) The permit card may not be removed until the private sewage system has been
457 | installed, inspected and approved by the Environmental Specialist or a Tribally-
458 | authorized inspector.

459 | (4) Failure to display the permit card shall be considered a violation of this section
460 | and may subject the property owner, his/her agent or contractor, to penalty
461 | provisions of this ordinance law.

462 | (b) Application Requirements

463 | (1) The Tribal sanitary permit application shall include the following information
464 | which shall be furnished by the applicant on forms provided by the Tribal
465 | Environmental Health Department and Safety Division, along with all applicable
466 | fees:

467 | (A) Names and address of the applicant (owner of the site) and the plumber
468 | employed (when applicable).

469 | (B) Legal description of the subject site by claim number, lot block and
470 | recorded subdivision or by metes and bounds. All legal descriptions must
471 | also include a plot 1/4-1/4 section description to the nearest forty (40) acres
472 | (ie: i.e.: NW 1/4 of the SE 1/4, Section 12, T23N-R19E).

473 | (C) All lot dimensions.

474 | (D) Driving directions to the site

475 | (E) Building use (single, family, duplex, multi-family, commercial,
476 | industrial, and Tribal roll number).

477 | (F) Plot plan. Detailed plot plan dimensions are drawn to scale showing the
478 | lot size; the location of all septic tanks; holding tanks or other treatment
479 | tanks; building sewers—sanitary and storm; wells; water mains or water
480 | service; streams and lakes; dosing or pumping chambers; distribution
481 | boxes; effluent systems; dual disposal systems; replacement system areas;
482 | and the location of the building served. Adjoining properties shall be
483 | checked to insure that the site location distances and dimensions shall be
484 | shown on the detailed plot plan.

485 | (G) Reference points. A vertical elevation reference point and a horizontal
486 | reference point.

487 | (H) Soil boring and percolation test data related to the undisturbed and
488 | finished grade elevations, vertical elevation reference point and horizontal
489 | reference point. Surface elevations, vertical elevation reference point and
490 | horizontal point. Surface elevations shall vebe given for all soil borings. All

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- 491 soil borings and percolation tests shall be performed by a State of
492 Wisconsin Certified Soil Tester.
- 493 (I) Occupancy. The maximum number of bedrooms in the
494 ~~resideee~~residence shall be indicated. The number of employees(full time
495 and part time on an 8-hour shift), estimated number of customers in an 8-
496 hour shift, number of washing machines and disposition of
497 commercial/retail buildings.
- 498 (J) Other specifications. Complete specifications for pumps and controls
499 including dose volume, elevation differences (vertical lift), pipe
500 frictionless, pump performance curve, pump model manufacturer, and all
501 piping information.
- 502 (K) Any other information deemed necessary by the Environmental Health
503 Department and Safety Division.
- 504 (2) Pit privy permit applications shall be accompanied by soil data provided by a
505 State of Wisconsin-~~licence Certified~~license certified tester to a depth of ~~3~~three feet
506 (3') below the proposed pit bottom. Soil data is not required when making
507 application for a vault privy. The property owner shall be furnished with a copy of
508 the Tribal privy construction requirements when the permit for a privy is issued.
- 509 (3) The Tribal Environmental Health Department and Safety Division reserves the
510 right to refuse incomplete or incorrect permit applications or to delay issuance
511 until corrected or completed applications are received.
- 512 (c) Permit Expiration
- 513 (1) Sanitary permits for private sewage systems, which have not been installed,
514 shall expire two (2) years after the date of issuance. Permits may be renewed
515 following written application to the Environmental Health Department and Safety
516 Division by the proper owner, his/her agent or contractor, prior to the expiration
517 date of the original permit.
- 518 (2) There shall be a fee for the renewal of a permit.
- 519 (3) The renewal shall be based on Oneida Sanitary Ordinance requirements in
520 effect to the time of renewal.
- 521 (4) Changed-~~ordinance~~ requirements may impede the renewal.
- 522 (5) The property owner, his/her agent, or contractor, shall return the original permit
523 card and receive a new card when the permit is renewed.
- 524 (6) All permits issued prior to the effective date of this ~~ordinance~~law shall expire
525 two (2) years from issue date unless renewed.
- 526 (7) If a permit has expired and the owner wants to build on the site, a new sanitary
527 permit must be obtained, and the site shall be subject to the currently existing
528 ordinance requirements, including any revisions made during the elapsed time
529 period.
- 530 (d) Permit Replacement/Transfer
- 531 (1) If a sanitary permit is lost or destroyed, a replacement permit may be obtained
532 from the Environmental Health Department and Safety Division. The land owner

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- 533 shall submit a written request, along with the permit replacement fee, to the
534 Environmental Health ~~Department~~and ~~Safety Division~~, and a new sanitary permit
535 shall be issued prior to installation of the system shall be subject to the following:
- 536 (A) The new property owner shall submit a written request to the
537 Environmental Health ~~Department~~and ~~Safety Division~~ to transfer the
538 permit.
- 539 (B) The sanitary permit card shall be returned to the Department so that a
540 new permit card may be issued.
- 541 (C) Transfer of ownership shall not affect the expiration date or renewal
542 requirements. Any changes other than transfer of ownership shall require a
543 new permit.
- 544 (D) The new property owner shall submit the permit transfer fee to the
545 Environmental Health ~~Department~~and ~~Safety Division~~.
- 546 (e) Building alteration permits
- 547 (1) A tribal building alteration permit shall be required when an existing private
548 sewage system is intended to serve a building which is to be remodeled such that
549 there will be an increase in the wastewater load from that building or where the
550 building is to be rebuilt or replaced with a new or different use or building.
- 551 (2) Prior to issuing a building alteration permit, the existing private sewage system
552 shall be examined. No permits will be issued unless the following conditions are
553 met:
- 554 (A) The system is functioning properly regarding the condition of the
555 system shall be provided.
- 556 (B) The systems will be capable of handling the proposed wastewater load
557 from the building to be served.
- 558 (C) The system will meet all minimum setback requirements of ILHR 83.
- 559 (3) Soil boring data to a depth of ~~3~~three feet (~~3'~~3') below the bottom of the existing
560 system shall be reported by a State of Wisconsin Certified Soil Tester. For all soil
561 absorption systems, a replacement system site shall be located for future use.
- 562 (4) Alteration of a building serviced by existing holding tanks will require an
563 updated Holding ~~tank~~Tank Agreement, one (1) which meets ~~there~~the requirements
564 of this ~~ordinance~~law. A copy ~~o~~of this completed agreement shall be attached to
565 the permit.
- 566 (5) All systems shall be inspected by the Tribal inspector at the time of system
567 and/or building alteration to ~~insure~~ensure that proper materials and methods are
568 being used.
- 569 (6) Reconnecting to an undersized system shall be allowed only if an affidavit for
570 the use of the undersized system is recorded in the Oneida ~~Land Office~~Nation
571 ~~Register of Deeds~~ and an adequate area exists for a replacement system.
- 572 (7) When a change in the use of a building or premises is contemplated, the
573 Environmental Health ~~Department~~and ~~Safety Division~~ shall be contacted as to
574 whether it shall be necessary to obtain a sanitary permit or a building alteration

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- 575 permit.
576 (f) Change of plumbers
577 (1) A Tribal building alteration permit shall be required when an existing private
578 sewage system is intended to serve a building which is to be remodeled such that
579 there will be an increase in the wastewater load from the that building or where the
580 building which is to be remodeled such that there will be an increase in the
581 wastewater load from that building or where the building is to be rebuilt or
582 replaced with a new or different use or building.
583 (2) Prior to issuing a building alteration permit, the existing private sewage system
584 shall be examined. No permits will be issued unless the following conditions are
585 met:
586 (A) The system is functioning properly, pursuant to this ~~ordinance~~law. A
587 State of Wisconsin Licensed Plumber's statement regarding the condition
588 of the system shall be provided.
589 (B) The system will be capable of handling the proposed wastewater load
590 from the building to be served.
591 (C) The systems will be capable of handling the proposed wastewater load
592 from the building to be served.
593 (3) Soil boring data to a depth of ~~3~~three feet (~~3'~~3') below the bottom of the
594 ~~existing~~existing system shall be reported by a State of Wisconsin Certified Soil
595 Tester. For all soil absorption systems, a replacement system site shall be located
596 for future use.
597 (4) Alteration of a building received by existing holding tanks will require an
598 updated Holding Tank Agreement, one (1) which meets their requirements of this
599 ~~ordinance~~law. A copy ~~er~~of this completed agreement shall be attached to the
600 permit.
601 (5) All systems shall be inspected by the Tribal inspector at the time of system
602 and/or building alteration to insure that proper materials and methods are being
603 used.
604 (6) Reconnecting to an undersized system shall be allowed ~~on ly~~only if an affidavit
605 for the use of the undersized system is recorded in the Oneida ~~Land Office~~Nation
606 Register of Deeds and an adequate area exists for a replacement system.
607 (7) When a change in the use of a building or premises is contemplated, the
608 Environmental Health ~~department~~and Safety Division shall be contacted as to
609 whether it shall be necessary to obtain a sanitary permit or a building alteration
610 permit.
611 (g) Change of Plumbers
612 (1) When an owner wishes to change plumbers, the owner must complete a Tribal
613 Change of Plumbers Form, signed by the new plumber. The form must be
614 submitted to the Environmental Health ~~Department~~and Safety Division, along with
615 the applicable fees.
616 (2) The change of plumbers shall take place prior to the installation of the private

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617 sewage system.

618 (h) Modified Mound and Experimental System Permits

619 (1) Sanitary permits of modified mounds and experimental systems shall only be
620 approved for existing buildings. Not all sites are suitable for modified mounds and
621 experimental systems.

622 (2) Sanitary permits for modified mounds and experimental systems shall be
623 approved by the Environmental Health ~~Department~~ and Safety Division only on an
624 individual basis.

625 (3) Modified mounds and experimental system sanitary permit applications are
626 subject to all requirements of a regular sanitary permit, in addition to any
627 additional requirements deemed necessary by the Environmental Health
628 ~~Department~~ and Safety Division. Additional information may include, but is not
629 limited to: more frequent inspections, additional soil borings, groundwater
630 monitoring or contour maps.

631 (i) Site Evaluation

632 (1) A site evaluation may be necessary to determine the suitability of a lot for a
633 private sewage system. Site evaluations will be made at the discretion of the
634 Environmental Specialist. The evaluation shall take place within ten (10) working
635 days of becoming aware of question of suitability and will be made prior to the
636 issuance of the sanitary permit. The site evaluation will result in one (1) of the
637 following:

638 (A) Issuance of the permit, provided all information on the application is
639 correct and complete.

640 (B) Holding the application pending clarification of information or new
641 information by the owner, the plumber or the certified Soil Tester.

642 (C) Denial of the permit if the site does not meet all the provisions of this
643 ~~ordinance~~ law.

644 (2) Soil test pits shall be constructed which allow adequate visual observations of
645 the soil provide in place. This is best accomplished by the construction of backhoe
646 pits. The test pits shall be left in such a manner that will permit access to them for
647 the evaluation of the soil protection were provided. Bore holes shall be either
648 fenced or closed within five (5) days of the date of inspection.

649 (3) Site evaluations shall be done prior to issuance of permits for a mound system.

650 (j) Permit Denial

651 (1) When an on-site evaluation of a proposed private sewage system or pit privy
652 reveals that the site is compliance with the requirements of this ~~ordinance~~ law, the
653 permit application shall be ~~denied~~ approved. Written justification of the denial must
654 be supplied to the owner of the Environmental Health ~~Department~~ and Safety
655 Division within five (5) working days of the decision.

656 (k) Holding Tank Agreements

657 (1) Prior to the issuance of a sanitary permit for the installation of a holding tank,
658 the owner of the holding tank, or his/her agent, shall sign and register a Holding

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- 659 | Tank Agreement with the Oneida ~~tribe~~Nation or a State of Wisconsin Licensed
660 | Plumber. The purpose of the agreement is to ensure that the holding tank
661 | wastewater will be properly disposed of.
- 662 | (2) Holding tank owner shall sign a servicing Contract with the Oneida Utilities for
663 | sewage disposal and must comply with the following requirements:
- 664 | (A) The holding tank owner shall sign a Servicing contract with the Oneida
665 | Utilities for regularly scheduled servicing of the holding tank by the
666 | Tribally-licensed septic tank pumper. Copies of the servicing contract shall
667 | be attached to the holding tank agreement.
- 668 | (B) The holding tanks shall be chained and locked at all times, and the
669 | chain, lock and lock keys shall be the property of the Oneida Utilities, to
670 | prevent unauthorized removal of the holding tank wastewater.
- 671 | (C) The Oneida Utilities shall keep a log of the holding tank servicing
672 | dates, owner's names and servicing locations, gallons serviced, and
673 | disposal locations for all owner's names and servicing locations, gallons
674 | serviced, and disposal locations for all holding tanks on registered
675 | Servicing Contracts. This log shall be sent to the Environmental Health
676 | Department and Safety Division by the 15th of every month, for the previous
677 | month's activities.
- 678 | (3) Holding tanks owners who contract with a Non-tribal Septic Tank Pumping
679 | Service must comply with the following requirements:
- 680 | (A) The holding tank owner shall sign a Servicing Contract with the Non-
681 | tribal Septic Tank Pumping Service for regularly scheduled servicing of the
682 | holding tanks copies of the Servicing contract shall be attached to the
683 | Holding Tank Agreement.
- 684 | (B) The holding tanks shall be chained and locked at all times.
- 685 | (C) All Non-Tribal Septic Tank Pumping Services must meet the following
686 | requirements:
- 687 | (i) The Septic Tank Pumper must have a valid State of Wisconsin
688 | license, and must meet all requirements of NR 113, Wisconsin
689 | Administrative Code.
- 690 | (ii) The Septic Tank Pumper must follow all of the Nation's
691 | disposal requirements ~~of the tribal ordinances~~.
- 692 | (D) The Non-tribal Septic Tank Plumber shall keep a log of the holding
693 | servicing dates, owners names, and servicing locations, gallons serviced, an
694 | disposal locations of all holding tanks on registered servicing contacts. This
695 | log shall be sent to the Environmental Health Department and Safety
696 | Division by the 15th of every month, for the previous month's activities.
- 697 | (4) The signed Holding Tank Agreement shall be binding upon the owner, the
698 | heirs of the owner and assignees of the owner, or the authorized agent.
- 699 | ~~(5) The Holding Tank Agreement shall be binding upon the owner, the heirs of the~~
700 | ~~owner and assignees of the owner, or the authorized agent.~~

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- 701 | ~~(6)~~ (5) Removal of the holding tank wastewater by persons other than those
702 | employed by the Oneida Utilities, or those State of Wisconsin-licensed Septic
703 | Tank Plumbers approved by the Environmental Health ~~Department~~ and ~~Safety~~
704 | ~~Division~~, shall constitute a violation of this ~~ordinance~~ law. Such violations which
705 | occur on Tribally-leased land shall constitute a violation of the Tribal land lease.
- 706 | (l) Maintenance Program
- 707 | (1) All soil absorption system tanks shall be pumped by a Tribally-licensed or
708 | State of Wisconsin-licensed septic tank pumper within ~~two~~ (2) years of the date of
709 | installation and at least once every ~~two~~ (2) years thereafter, unless upon inspection
710 | the tank is found to have less than ~~one third~~ (1/3) of the volume occupied by
711 | sludge and scum.
- 712 | (2) All private sewage systems installed after the date of adoption of this
713 | ~~ordinance~~ law shall be inspected once every ~~two~~ (2) years for system compliance
714 | and tank integrity. Additional inspections, or inspections of systems installed prior
715 | to the date of ~~ordinance~~ law adoption, may be performed upon request by the
716 | system owner.
- 717 | (3) Inspection of a private sewage shall be conducted by a Registered Sanitarian,
718 | the Tribal Environmental Specialist, a Master Plumber, a Journeyman Plumber or a
719 | Registered Plumber licensed by the State. Inspections may also be performed by
720 | training program and have received authorization from the ~~Tribe~~ Nation. Re-
721 | certification of the authorized tribal employees shall be required on a yearly basis,
722 | and shall be provided by the Environmental Health ~~Department~~ and ~~Safety~~
723 | ~~Division~~. The inspections shall be performed at the same time as the tank pumping.
- 724 | (4) The owner of said soil absorption system shall submit information as to the
725 | condition of the system and tank, and the date of pumping, to the Tribal
726 | Environmental Health ~~Department~~ and ~~Safety~~ ~~Division~~ within ~~ten~~ (10) days of the
727 | date of inspection ~~of the tank is made by an authorized Tribal employee.~~
728 | ~~(5) of the tank is made by an authorized Tribal employee.~~
- 729 | ~~(6)~~ (5) The owner of a holding tank shall sign and register a Holding Tank
730 | Agreement, as specified in ~~Section~~ ~~section~~ 407.35-1(i) of this ~~ordinance~~ law, and
731 | shall be subject to all requirements stated in ~~Section~~ ~~section~~ 407.24-1(d)(1).
- 732 | ~~(7)~~ (6) Non-tribal Septic Tank Pumpers who are approved by the Environmental
733 | Health ~~Department~~ and ~~Safety~~ ~~Division~~ to service on-site waste disposal systems
734 | must comply with the following requirements:
- 735 | (A) The Septic Tank Pumpers must have a valid State of Wisconsin license,
736 | and must meet all requirements of NR 113, Wisconsin Administrative
737 | Code.
- 738 | (B) The Septic Tank Pumper must obtain a Tribal Vendor's Permit prior to
739 | servicing any tanks.
- 740 | (C) The Septic Tank Pumper must follow all ~~of the Nation's~~ disposal and
741 | reporting requirements ~~of the Tribal ordinances~~.
- 742 | (m) Permit ~~Fees~~ fees shall be set and periodically amended by the Oneida Business

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743 | Committee. Fees may be reduced by fifty percent (50-%%) if the inspections are
744 | performed by Indian Health Service agents. All fees must accompany permit application.
745 | Fees are payable by check to the "Oneida ~~Tribe of Indians of Wisconsin~~-Nation". No out-
746 | of-state checks will be accepted. Failure to pay permit fees constitutes a violation of this
747 | ordinancelaw. Applicable fees are as follows:

748	(1) Private Residential Building Sanitary Permit:	
749	(A) Conventional soil absorption systems:	\$20.00
750	(B) In-ground pressure distribution system:	\$20.00
751	(C) Holding tanks:	\$20.00
752	(D) Mound systems, modified mound systems, at gate systems and	
753	experimental systems:	\$50.00
754	(2) Public and Commercial Building Sanitary Permits:	
755	(A) Conventional soil absorption systems:	\$45.00
756	(B) In-ground pressure distribution systems:	\$45.00
757	(C) Holding tanks:	\$90.00
758	(D) Mound systems, modified mound systems, at grade systems an	
759	experimental systems:	\$150.00
760	(3) Other Fees:	
761	(A) Sanitary renewal:	\$5.00
762	(B) Change of Plumber fee:	\$5.00
763	(C) Privy permits:	\$5.00
764	(D) Building alteration permit fees:	
765	Private Residential building	\$20.00
766	Public and Commercial buildings	\$45.00

768 | **407.46-1. Inspections**

769 | 407.46-1. General

770 | (a) All private sewage shall be inspected after construction by and before back-
771 | filingbackfilling. The inspections shall be performed within the following work day
772 | excluding Saturdays, Sundays, and holidays after receiving notice from the licensed
773 | plumber responsible for the installation.

774 | (b) A Tribal Site Inspection form shall be completed by the Environmental specialist efor
775 | Tribal inspector. A copy of the report shall be sent to the system owner.

776 | 407.46-2. Notice for inspection.

777 | (a) The plumber employed to install the system shall notify the Environmental Specialist
778 | in person, by telephone or in writing when the on-site waste disposal system is ready for
779 | inspection.

780 | (b) The owner shall be notified of regular inspections within twenty-four (24) hours of the
781 | inspection. If the owner can notcannot be reached within the twenty-four (24) hour period,
782 | the inspection shall continue as scheduled. No prior notification shall be required for
783 | compliance inspections for holding tanks.

784 | 407.46-3. Preparation for inspection

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- 785 (a) When an on-site waste disposal system is ready for inspection, the plumber employed
786 to install the system shall make such arrangements as will enable the Environmental
787 | Health ~~Department~~ and Safety Division inspector to inspect all parts of the system.
- 788 (b) The plumber shall have present the proper apparatus and equipment for conducting the
789 inspection and shall furnish such assistance as may be necessary in making a proper
790 inspection.
- 791 | 407.6-4-4. Holding Tank Inspections
- 792 (a) All site constructed holding tanks shall be inspected after the forms have been set and
793 reinforcing is in place; but before any concrete has been poured. Concrete may be poured
794 only after it has been determined that the tank, as formed, complies with the plans as
795 approved by the Department.
- 796 (b) This inspection shall not eliminate the need for an inspection after the installation has
797 been completed.
- 798 | 407.46-5-5. Privy Inspections
- 799 (a) All privies installed shall be inspected for compliance with this ordinance ~~law~~. The
800 home owner or his agent shall notify the Environmental Health ~~Department~~ and Safety
801 Division for inspection immediately after the privy has been constructed.
- 802 (b) Privies may be inspected periodically after the initial inspection.
- 803 | 407.45-6-6. Mound Inspections
- 804 (a) All mound systems shall be inspected during construction by an inspector certified by
805 | the ~~Tribe~~ Nation. The plumber installing the mound shall notify the Environmental
806 | Specialist twenty-four (24) hours in advance of the installation. Four (4) inspections of the
807 | system shall be made during the first year of the mound operation in accordance with
808 | Tribal guidelines. Annual inspections may be made after the first year of operation, and
809 | may be more frequent if deemed necessary by the Environmental Specialist.
- 810 | 407.46-7-7. Re-inspections
- 811 (a) The Environmental Specialist may require additional inspections other than the
812 inspection prior to backfilling, or if the initial inspection disclosed that the installation was
813 incomplete at the time the installer indicated it would be complete, or if the system was
814 | not in conformance with the requirements stated in this ordinance ~~law~~.
- 815 | 407.47-6-8. As-built ~~plans~~ Plans
- 816 (a) All on-site waste disposal systems installed, enlarged, modified, or expanded after the
817 | adoption date of this ordinance ~~law~~ shall require as-built plans to be registered with the
818 | Environmental Health ~~Department~~ and Safety Division.
- 819 (b) The plumber employed to install the system shall submit the as-built plans to the
820 | Environmental Health ~~Department~~ and Safety Division within five (5) days of the
821 | installation of the system.
- 822 (c) The as-built plans shall include all dimensions described in Section 407.35-1(b)(1)(F),
823 | of this ordinance ~~law~~. It shall also include the location of all manhole risers installed as
824 | part of the system for which the as-built is being developed. The manhole covers and other
825 | portions of the system shall be located from two (2) permanent points (ie, i.e., corners of
826 | the building served).
- 827 | 407.48-6-9. Covering of Work

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828 (a) No part of the private sewage system may be backfilled until it has been inspected and
829 approved. If any part is covered before being inspected and approved it shall be uncovered
830 at the discretion of the Environmental Health ~~Department~~and Safety Division inspector or
831 Indian Health Service Inspector.

832 ~~407.4-9~~6-10. Defects in ~~materials~~Materials and ~~workmanship~~Workmanship

833 (a) If inspection discloses defective material, design, siting or unworkmanlike construction
834 which does not conform to the requirements of this ~~ordinance~~law, the
835 ~~unconforming~~nonconforming parts shall be removed, replaced and ~~reinspected~~re-
836 inspected.

838 ~~407.5-7.~~ Administration and Enforcement

839 ~~407.5-7-1 Administrative Procedures Act~~
840 ~~Administrative Procedures Act. In times, penalties and appeal procedures are established by the~~

842 ~~407.5-2~~ Variances

843 (a) A request for a variance to the conditions or requirements of this ~~ordinance~~law may be
844 made to the Environmental Specialist. The Environmental Specialist shall not have the
845 authority to approve any variance request. ~~A variance request shall constitute a contested-~~
846 ~~ease. Procedural requirements for contested cases shall be followed~~The Environmental
847 Resource Board shall issue written approval or denial of any variances requested.

848 ~~(b) The hearing body, as designated by the Administrative Procedures Act, shall hear the~~
849 ~~facts of the case and may either approve, deny, or request additional information, by in-~~
850 ~~any case must act upon the variance request within the time frame set by the~~
851 ~~Administrative Procedure Act. Considerations relating to effect on public health, and tribal~~
852 ~~goals may be considered during the variance hearing.~~

853 ~~407.5-3~~ (b) Parties disagreeing with the determination of the Environmental Resource
854 Board may contest the decision by filing a complaint to the Judiciary in accordance with
855 section 407.7-5.

856 ~~407.7-2.~~ Violations

857 (a) Any person who violates any provision of this ~~ordinance~~law is subject to penalties and
858 forfeitures provided for by this ~~ordinance and the Administrative Procedure Act~~law and
859 any resultant rules. Actions which constitute a violation are described in, but not limited
860 to, the following:

861 (1) Installing a new on-site waste disposal system without first obtaining a Tribal
862 Sanitary Permit.

863 (2) Modifying, altering, enlarging or constructing additions to an existing on-site
864 waste disposal system without first obtaining a Tribal Sanitary Permit or a
865 Building Alteration Permit.

866 (3) Servicing or removing sewage from an on-site waste disposal system tank
867 without a valid State of Wisconsin or Tribal license.

868 (4) Failing to obey any requirement of an Administrative Enforcement Order.

869 (5) Failing to properly display the Sanitary Permit card.

870 (6) Failing to disconnect a failing private on-site waste disposal system within the
871 Order. Building served by disconnected failing on-site systems shall be

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- 872 reconnected to public sewer systems.
873 (7) Failing to connect a building served by a private on-site waste disposal system
874 to a public sewer system within the time allotted by ~~Section~~section 407-24.1(f) of
875 this ~~ordinance~~law, or the date stated in the Order.
876 (8) Installing, modifying, altering, enlarging or making additions to any part of an
877 on-site waste disposal system without a valid State Plumbing License. Privies are
878 exempt from this requirement.
879 (9) Failing to pay Tribal permit fees
880 (10) Failure to correct a failing on-site waste disposal system within three (3)
881 months of an Administrative Order. A failing on-site waste disposal system
882 constitutes a threat to public health.
883 (11) Failure to maintain a system through regularly scheduled pumping, pursuant
884 to holding tank agreement and maintenance program of this ~~ordinance~~law. Failing
885 to maintain a holding tank through regularly scheduled pumping constitutes a
886 threat to public health.

~~(b) Any violation that results in a contested case shall comply with the procedures designated in the Administrative Procedures Act.~~

407.5-4-7-3. Administrative Orders

- 890 (a) The Environmental Specialist may issue an Administrative Enforcement Order when a
891 violation of any provision of this ~~ordinance~~law occurs, to provide the owner or agent the
892 opportunity to bring their action into compliance with the provisions of this ~~ordinance~~law.
893 (b) The Order shall be given to the party responsible for the violation and shall state the
894 nature of the violation, possible penalties for failure to correct, and shall state the
895 ~~rights~~right to ~~file a~~ contested ~~case~~the matter with the Oneida Judiciary.

407.5-5-7-4. Penalties

- 897 (a) ~~All~~The Environmental Resource Board is hereby granted administrative rulemaking
898 authority to establish penalties ~~will be determined by the Tribal entity charged with~~
899 ~~enforcement for violations of tribal requirements for fines, penalties and appeals, this law.~~
900 Except as provided ~~by the Administrative Procedures Act. Forfeitures in section 407.5-~~
901 5(b), forfeitures for violations shall amount to not less than \$ten dollars (\$10.00) and not
902 greater than \$fifty dollars (\$50.00) per violation. Each day such violation continues
903 constitutes a separate offense.
904 (b) Forfeitures for violations which constitute a threat to public health shall not be less
905 than \$fifty dollars (\$50.00) and not more than \$two hundred dollars (\$200.00) per
906 violation. Each day such violation continues constitutes a separate offense.

407.5-6 Appeals

- 908 (a) ~~Appeals shall be pursuant to the Administrative Procedures Act~~

407.5-7 Severability

- 910 (a) ~~Should a provision of this ordinance or the application thereof to any person or~~
911 ~~circumstance be held as invalid, such invalidity shall not affect other provisions.~~
912 (b) ~~Repeal. All other Oneida Tribal laws, rules or regulations which are consistent with~~
913 ~~this ordinance and are held subject to this ordinance are hereby repealed, but such shall~~
914 ~~not affect pending proceedings.~~

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915 ~~(c) Effective Date. This ordinance shall take effect 10 days after the date of formal~~
916 ~~approval by the Oneida Business Committee.~~

917 407.7-5. Appeal Permit Decision. Any person wishing to contest a decision of the Department
918 related to a permit may appeal such action by filing a complaint with the Judiciary Trial Court
919 naming the Department.

920 407.7-6. Contested Action Hearings. All citations, penalties, forfeitures, orders and declarations
921 issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which
922 shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the
923 citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which
924 time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act
925 for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as
926 possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing,
927 for all persons entering a plea contesting the fact that they committed the act for which a citation
928 was issued. In addition to scheduling requested hearings, the Judiciary may also make conditional
929 orders at the prehearing which are effective until the matter is resolved.

930 (a) Community Service. Community service may be substituted for fines at the Judiciary's
931 discretion, provided that, if so substituted, the Judiciary shall use the rate of one (1) hour
932 per ten dollars (\$10.00) of the fine.

933 (b) Allocation of Citation Revenue. All fines and penalties issued by citations are payable
934 to the Environmental Resource Board or its designee, the proceeds of which the
935 Environmental Resource Board shall contribute to the Nation's general fund.

936 (c) Appealing the Decision of the Judiciary Trial Court. Any person wishing to contest
937 the determination of the Judiciary Trial Court may appeal the applicable determination to
938 the Judiciary's Court of Appeals in accordance with the Rules of Appellate Procedure.

939 (d) Pursuing Payment of a Citation. The Environmental Resource Board may pursue
940 payment from parties who have failed to make the required payments through the
941 garnishment process contained in the Garnishment law and/or by attaching a Tribal
942 member's per capita payment pursuant to the Per Capita law.

943 407.7-7. Severability

944 (d) Conflict with Federal Law. Should any part of this ordinance be found to be in conflict
945 with federal requirements which are required in order that the Oneida ~~Tribe~~Nation receive
946 federal funds, the conflicting section of this ~~ordinance~~law is to be considered inoperative
947 only for purposes of that particular funding and that inoperative only for purposes of that
948 particular funding and that particular conflict. Such conflict shall not affect the operation
949 of the remainder of this ~~ordinance~~law in its application to those agencies or departments
950 directly affected.

951 ~~(e) Compliance with Ordinance. Nothing in this ordinance shall be held to diminish~~
952 ~~constitutional right of any person or to limit or repeal additional requirements imposed by~~
953 ~~or otherwise recognized by law. All requirements or privileges relating to evidence or~~
954 ~~procedures shall apply equally to agencies and persons. Every agency or commission is~~
955 ~~granted authority to comply with the requirements of this ordinance. Subsequent tribal law~~
956 ~~shall not supersede or modify this ordinance or its applicability to any agency unless it is~~
957 ~~done so expressly by tribal law.~~

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958 | 407.57-8 Amendments

959 | ~~(a) Any interested person may petition an agency and request that said agency propose~~
960 | ~~that the Oneida business committee adopt, amend, or repeal this ordinance. Should this~~
961 | ~~occur, the following shall apply. In addition to the following, the requirements of the~~
962 | ~~Tribal Administrative Procedures Act shall apply:~~

963 | ~~(1) Within sixty (60) days thereafter, the agency shall either deny the petition in~~
964 | ~~writing, (stating reason for denial) or initiate ordinance/rule making proceedings in~~
965 | ~~accordance with the Administrative Procedures Act.~~

966 | 407.5-9. Waiver of liability

967 | (a) This ~~ordinance~~law shall not create a liability on the part of or a cause of action against
968 | the ~~TribeNation~~, or any employee thereof, for any private on-site sewage treatment system
969 | which may not function as designed. There shall be no liability of warranty for any site
970 | which is approved or denied. The issuance of a sanitary permit and the formal inspection
971 | of such a system does not warrant the system's function, nor is there a guarantee that the
972 | system is free of defects or that all aspects of the system comply with the requirements or
973 | this ordinance.

974

976 | Adopted - BC-10-28-88-A

FINANCE ADMINISTRATION
Fiscal Impact Statement



MEMORANDUM

DATE: June 7, 2017

FROM: Rae Skenandore, Project Manager

TO: Larry Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer

RE: **Fiscal Impact of the transfer of the Environmental Resource Board's Hearing Authority to the Oneida Judiciary**

I. Estimated Fiscal Impact Summary

Law: Domestic Animal Hunting, Fishing and Trapping law (HTF) Public Use of Tribal Land (Public Use) Tribal Environmental Response (TERP) Well Abandonment Law (Well Abandonment) All-Terrain Vehicle Law (ATV) Water Resources Ordinance (Water Resources) On-Site Waste Disposal Ordinance (Waste Disposal)	Draft 19 Draft 2 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1
Implementing Agency	Oneida Police Department (OPD) Conservation Environmental Resource Board (ERB) Emergency Management Environmental Health and Safety Division Comprehensive Health Division Oneida Judiciary
Estimated time to comply	January 1, 2018
Estimated Impact	Current Fiscal Year 10 Year Estimate
ERB stipend savings	\$830 \$8,300
Total Estimated Savings	\$830 \$8,300
Revenue and cost considerations	Fee Schedules should be removed from the various Laws
Uncertainties and Unknowns	None

II. Background

A. Legislative History

The Oneida Business Committee created the Environmental Resource Board through Resolution BC-02-22-85-B. GTC Resolution 01-07-13-B established the Oneida Judiciary.

B. Summary of Content

1. The Domestic Animal amendments are being processed separately in order to make further revisions. However, it is included here because there are no additional fiscal impacts due to the amendments.
2. All Laws are being amended to state that the Trial Court is the entity authorized to conduct hearings.
3. Other minor changes, including formatting, have been made to these Laws to comply with drafting style. These changes do not affect the content of these Laws.

C. Methodology and Assumptions

1. A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.
2. Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.
3. The analysis was completed based on the information provided as of the date of this memo.

III. Agency

The hearing authority will simply be transferred from ERB to the Judiciary. Historical hearing stipends paid to the Board were \$750 in 2017, \$1,200 in 2016, and \$700 in 2015. Transferring the hearing authority to the Judiciary would result in an average savings of approximately \$830 annually. The Judiciary does not anticipate any additional costs as this will simply be absorbed into their existing duties. ERB has stated that they expect the transition of the hearing authority to be complete by January 1, 2018

IV. Financial Impact

Approximately \$830 savings annually.

V. Recommendation

Finance does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Consider the adoption of the amendments to the Public Use of Tribal Lands Lands Law

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jennifer Falck, LRO Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chairperson 
DATE: July 26, 2017
RE: Public Use of Tribal Land Law Amendments

Please find the following attached backup documentation for your consideration of the Public Use of Tribal Land Law Amendments:

1. Resolution: Public Use of Tribal Land Law Amendments
2. Statement of Effect: Public Use of Tribal Land Law Amendments
3. Public Use of Tribal Land Law Amendments: Legislative Analysis
4. Public Use of Tribal Land Law Amendments: Clean Draft
5. Public Use of Tribal Land Law Amendments: Redline to Current Draft
6. Public Use of Tribal Land Law Amendments: Fiscal Impact Statement

Overview

This resolution adopts amendments to the Public Use of Tribal Land Law to transfer the Environmental Resource Board's hearing authority to the Judiciary.

In accordance with the Legislative Procedures Act, a public meeting was held regarding this law on June 15, 2017 with a comment period closing on June 29, 2017. There were no comments provided. These amendments will become effective beginning in the new fiscal year on October 1, 2017.

Requested Action

Approve the Resolution: Public Use of Tribal Land Law Amendments

BC Resolution _____*Public Use of Tribal Land Law Amendments*

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WHEREAS, the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, the Oneida Business Committee originally adopted the Public Use of Tribal Land Law through resolution BC-05-15-14-C and thereafter amended it through resolutions BC-12-10-14-A and BC-01-13-16-C; and

WHEREAS, the Amendments to the Law transfer the Environment Resource Board's original hearing body authority and responsibilities to the Oneida Judiciary as part of an effort to standardize and streamline all of the Nation's hearing responsibilities; and

WHEREAS, a public meeting on the proposed Amendments was held on June 15, 2017 in accordance with the Legislative Procedures Act; and

NOW THEREFORE BE IT RESOLVED, that the Public Use of Tribal Land Law Amendments are hereby adopted and shall become effective on October 1, 2017.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



Statement of Effect

Public Use of Tribal Land Law Amendments

Summary

This Resolution adopts Amendments to the Public Use of Tribal Land Law (the “Law”) which transfer the Environmental Resource Board’s original hearing body authority to the Oneida Judiciary.

Submitted by: Krystal L. John, Staff Attorney, Oneida Law Office

Analysis by the Legislative Reference Office

As stated above, these amendments will transfer the delegation of original hearing body authority from the Environmental Resource Board to the Oneida Judiciary. Such a transfer would implicate the Judiciary law and the Environmental Resource Board’s by-laws.

The transfer of hearing body authority would fit into the Oneida Judiciary’s subject matter jurisdiction according to the Judiciary law based on section 801.5-2, which provides that, “The Trial Court shall have subject matter jurisdiction over cases and controversies arising under the following... (a) Tribal laws which specifically authorize the Trial Court to exercise jurisdiction...” 8 O.C. 801 § 801.5-2. The amendments to the Law specifically authorize the Trial Court to exercise jurisdiction based on section 609.7-2. *Hearing and Appeals of Contested Actions*, which reads as follows:

All citations, orders and declarations issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all persons entering a plea contesting the fact that they committed the act for which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also make conditional orders at the prehearing which are effective until the matter is resolved. ...

(c) Appealing the Decision of the Judiciary Trial Court. Any person wishing to contest the determination of the Judiciary Trial Court may appeal to the Judiciary Court of Appeals in accordance with the Rules of Appellate Procedure. ...

The Environmental Resource Board’s by-laws provide the Board’s duties and responsibilities, among other things. Adoption of this law conflicts with the Board’s by-laws and the by-laws recognize the Environmental Resource Board’s original hearing body authority in section 1-4.b., which reads as follows: “The ERB shall serve as the original hearing body in matters concerning environmental and conservation laws and ordinances promulgated by the Oneida Tribe.” Accordingly, if this resolution is adopted, the Environmental Resource Board’s by-laws would need

to be amended to remove the original hearing body authority from the Board's duties and responsibilities.

A public meeting was held for these Amendments on June 15, 2017 for which the public comment period expired on June 22, 2017 in accordance with the Legislative Procedures Act. There were not any oral or written comments submitted.

Conclusion

Adoption of this Resolution would require the Environmental Resource Board's by-laws to be amended to remove the original hearing body authority from the Board's duties and responsibilities.



Hearing Authority Transfer Legislative Analysis

SECTION 1. BACKGROUND

REQUESTER: LOC	SPONSOR: Tehassi Hill	DRAFTER: Krystal L. John	ANALYST: Candice E. Skenandore
Intent of the Amendments	To further utilize the Judiciary.		
Purpose	To transfer the Environmental Resource Board (ERB) hearing authority to the Judiciary.		
Affected Entities	Trial Court, ERB		
Affected Legislation	Hunting, Fishing and Trapping law, Public Use of Tribal Land, Tribal Environmental Response, Well Abandonment Law, All-Terrain Vehicle Law, Water Resources Ordinance		
Enforcement/Due Process	ERB will no longer hold hearings; hearing will now be conducted by the Trial Court in accordance with the Rules of Civil Procedure.		
Public Meeting	A public meeting was held on June 15, 2017.		

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A.** Since 1985, ERB served as the hearing body authority over the Nation's environmental regulations.
- 3 On May 2, 1990, the Oneida Business Committee established the Oneida Tribal Judicial System (aka
- 4 Oneida Appeals Commission) and General Tribal Council reauthorized the Oneida Tribal Judicial
- 5 System on August 19, 1991 [*See BC Resolution 05-02-90 and GTC Resolution 8-19-91-A*]. The
- 6 purpose of the Oneida Appeals Commission was to enhance and protect self-governance and
- 7 sovereignty as well as enhance the separation of powers between the legislative, executive and
- 8 juridical responsibilities of the Nation. The Oneida Appeals Commission removed the Oneida
- 9 Business Committee from initial judicial decisions [*See GTC Resolution 8-19-91-A*].
- 10 **B.** In 2013, the General Tribal Council changed the structure of the Oneida Tribal Judicial System by
- 11 creating an Oneida Judiciary comprised of the Tribal Court and a Court of Appeals through the
- 12 adoption of the Judiciary law. The purpose of the Judiciary is to grant the Trial Court and Court of
- 13 Appeals expanded subject matter jurisdiction and create a greater role for the use of mediation and/or
- 14 peacemaking [*See GTC Resolution 01-07-13-B*].
- 15 **C.** These proposed amendments will transfer hearing authority from ERB to the Trial Court. The
- 16 following laws are amended to reflect the transfer of hearing authority:
- 17 ▪ Hunting, Fishing and Trapping law (HTF)
 - 18 ▪ Public Use of Tribal Land (Public Use)
 - 19 ▪ Tribal Environmental Response (TERP)
 - 20 ▪ Well Abandonment Law (Well Abandonment)
 - 21 ▪ All-Terrain Vehicle Law (ATV)
 - 22 ▪ Water Resources Ordinance (Water Resources)
 - 23 ▪ On-Site Waste Disposal Ordinance (Waste Disposal)
- 24

SECTION 3. CONSULTATION

25

26 A. ERB and the Trial Court have been consulted in the development of this legislative analysis.
27

28 **SECTION 4. PROCESS**

29 A. These Laws have followed the process set forth in the Legislative Procedures Act (LPA) except that
30 the public meeting was not properly noticed to all managers or directors. The LPA requires the public
31 meeting notice, legislation, legislative analysis and fiscal impact statement, if fiscal impact statement is
32 available, to be electronically provided to all managers or directors a minimum of ten business days
33 before a public meeting is held [*See Legislative Procedures Act, 1 O.C. 109.8-2 (b)*]. The notice and
34 backup documents were provided electronically to all managers or directors on Tuesday, June 13, 2017;
35 the public meeting was held Thursday, June 15, 2017. The public meeting was properly noticed in the
36 Kalihwisaks and was made public on the Oneida Register at least ten business days prior to the public
37 meeting as required by the LPA [*See Legislative Procedures Act, 1 O.C. 8-2 (a & b)*]. The LOC
38 extended the public comment period for these laws for an additional five business days, ending on
39 Thursday, June 29, 2017.

40 B. A work meeting with ERB was held on Wednesday, May 17, 2017 and a work meeting with ERB and
41 the Judiciary was held on Monday, June 12, 2017.
42

43 **SECTION 5. CONTENTS OF THE LEGISLATION**

44 A. The identified laws in Section 2.C of this analysis have been amended to state that the Trial Court is
45 the entity authorized to conduct hearings.
46

47 **SECTION 6. INTENT**

48 A. The intent of these amendments is to further utilize the Oneida Judiciary. The LOC has already
49 decided to transfer hearing authority from identified entities to the Judiciary. The majority of the
50 Oneida Land Commission's and some of the Trust Enrollments Committee's hearing authority has
51 already transferred to the Judiciary. Because the LOC is currently working on amendments the
52 Domestic Animals law in which ERB has hearing authority, it was decided to amend all laws which
53 grant ERB hearing authority and transfer that authority to the Judiciary.
54

55 **SECTION 7. EFFECT ON EXISTING LEGISLATION**

56 A. These amendments do not conflict with other laws or policies of the Nation.
57

58 **SECTION 8. OTHER CONSIDERATIONS**

59 A. The following table shows the type and approximate number of hearings ERB has held since 2012.
60 Included are hearings that pertain to Domestic Animals violations; however, the Domestic Animal
61 amendments are being processed separately in order to make further revisions. In total, ERB has held
62 approximately 69 hearings since 2012.
63

64

	ATV	HFT	Waste Disposal	Public Use	TERP	Water Resources	Well Abandonment	Domestic Animal	TOTAL
2012	0	1	0	0	0	0	0	1	2
2013	0	5	0	0	0	0	0	0	5
2014	0	14	0	0	0	0	0	3	17
2015	0	0	0	1	0	0	0	6	7
2016	0	11	0	2	0	0	0	19	32
2017	0	2	0	0	0	0	0	4	6
TOTAL	0	33	0	3	0	0	0	33	69

65 **B.** Minor changes, including formatting, have been made to these laws to comply with drafting style.

66 These changes do not affect the content of these laws.

67 **C.** Please refer to the fiscal impact statement for any financial impacts.

68

69 SECTION 9. ADDITIONAL AMENDMENTS

70 **A. *Hunting, Fishing, and Trapping law (Law)*.** In additions to the amendments which transfer ERB's
71 hearing authority to the Judiciary, additional amendments were made to the Hunting, Fishing, and
72 Trapping law. These amendments include revising section 406.4-3 which states that this Law does
73 not negate the jurisdiction of the State of Wisconsin in instances that involve non-member Indians
74 and non-Indians. This means that non-member Indians and non-Indians hunting, fishing and trapping
75 on land owned by the Nation must adhere to the Nation's license, permit and tag requirements but
76 may also be subject to State requirements. In addition, license and permit holders cannot utilize
77 hunting, fishing, or trapping privileges within the Reservation using a State license that would
78 provide greater privileges than those afforded in this Law and any applicable rules [*See Hunting,*
79 *Fishing and Trapping, 4 O.C. 406.4-3*].

80

Title 6. Property and Land – Chapter 609**PUBLIC USE OF TRIBAL LAND****Tsi> yuhw<tsya-t# tewatenhot&kwa> Ukwehuw#-ne***That of the earth one opens it up Oneida Nation*

609.1. Purpose and Policy

609.2. Adoption, Amendment, Repeal

609.3. Definitions

609.4. Environmental Resource Board

609.5. Land Access Map

609.6. Trespass

609.7. Violations and Appeals

1

609.1. Purpose and Policy

609.1-1. *Purpose.* The purpose of this law is to prevent improper access, use and trespass to Tribal lands.

609.1-2. *Policy.* It is the policy of the Nation to limit access to Tribal lands to protect and preserve the environment and natural resources including forests, wildlife, air and waters, through appropriate uses of the land.

8

609.2. Adoption, Amendment, Repeal

609.2-1. This law was adopted by the Oneida Business Committee by resolution BC-05-15-14-C and amended by BC-12-10-14-A and BC-01-13-16-C.

609.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

609.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity does not affect other provisions of this law which are considered to have legal force without the invalid portions.

609.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law controls.

609.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

609.2-6. This law may not be construed to preclude the Nation from pursuing relief for criminal trespass under applicable law.

22

609.3. Definitions

609.3-1. This section governs the definitions of words and phrases used within this law. All words not defined herein are to be used in their ordinary and everyday sense.

(a) “Designation” means the term used to describe the type of access granted to certain Tribal lands.

(b) “Fine” means a monetary punishment issued to a person violating this law and/or the rules created pursuant to this law, which is payable to ERB or the Department within the amount of time designated by the rules.

(c) “Lease” means any lease or agreement, including business site leases, entered into by the Nation and any person to allow the use of Tribal lands.

(d) “Nation” means the Oneida Nation.

(e) “Person” means any individual, group of individuals, corporation, partnership, limited liability company, or any other form of business organization.

(f) “Penalty” means a punishment, other than a fine, imposed on a person violating this law and/or the rules created pursuant to this law and may include, but is not limited to, the confiscation of equipment, the imposition of a wildlife protection assessment (civil recovery value), and restitution.

39

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40 (g) “Reservation” means all the lands and waters within the exterior boundaries of the
41 Reservation of the Oneida Nation, as created pursuant to the 18609 Treaty with the
42 Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

43 (h) “Trespass” means the unauthorized use or entry on Tribal lands, including
44 unauthorized uses under any law, rule, permit or lease of the Nation.

45 (i) “Tribal Land” means all of the Nation’s trust lands, and any land or interest in land
46 held by the Nation in fee or in any other form on the Reservation.

47

48 **609.4. Environmental Resource Board**

49 609.4-1. The Environmental Resource Board has the duty and power to carry out the intent and
50 purposes of this law and enforce the provisions of this law. The Environmental Resource Board,
51 or designated staff, shall:

52 (a) Develop, approve and maintain the Land Access Map.

53 (b) Hold public hearings on proposed amendments to the Land Access Map.

54 (c) Determine which Tribal land will be posted and ensure the appropriate signs are
55 posted.

56 (d) Implement and interpret the provisions of this law.

57 (e) As it deems appropriate, prescribe permissible and/or prohibited uses for Tribal land
58 that it designates as Oneida Community Access, Oneida Tribal Member Access or Open
59 Access, provided that such permissible and/or prohibited uses may not contradict with the
60 Zoning and Shoreland Protection Ordinance. Upon establishment of permissible and/or
61 prohibited uses, the Environmental Resource Board shall notify the Oneida Business
62 Committee of the permissible and/or prohibited uses and shall post notice of such uses on
63 the affected Tribal Land.

64

65 **609.5. Land Access Map**

66 609.5-1. *Designation of Tribal Lands.* A Land Access Map must be created which designates
67 Tribal land as one (1) of the following:

68 (a) Limited Access: Lands designated as “Limited Access” are open to all persons who
69 are granted land access permission by the Nation through a permit or lease for specified
70 purposes. The Environmental Resource Board may choose to designate a portion of land
71 as Limited Access in order to manage, preserve and protect that land for environmental,
72 cultural or other significance.

73 (b) Oneida Community Access: Lands designated as “Oneida Community Access” are
74 open to Tribal members, and their spouses and descendants; members of other federally
75 recognized Indian tribes, bands or communities; authorized employees of the Nation; and
76 persons who are accompanied at all times by a Tribal member, the spouse or descendant
77 of a Tribal member, or an authorized employee of the Nation.

78 (1) A Conservation Warden or Oneida Police Officer may require a person to
79 provide proof of eligibility to use Oneida Community Access lands.

80 (2) The Environmental Resource Board may choose to designate land as Oneida
81 Community Access in order to manage, preserve and protect access to locations
82 that have cultural or environmental significance.

83 (c) Oneida Tribal Member Access: Lands designated as “Oneida Tribal Member Access”
84 are open to Tribal members only. The Environmental Resource Board may designate
85 land as Oneida Tribal Member Access to protect the land for Tribal member use due to
86 the historical, spiritual, cultural and/or environmental significance of the land.

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87 (d) Open: Lands designated as “Open Access” are generally open to all persons for the
88 land’s designated use and enjoyment. The Environmental Resource Board may designate
89 land as Open Access where such designation is deemed beneficial to the Nation and
90 where such designation does not pose significant risk of damage to the Nation’s policies
91 and/or the land’s cultural or environmental preservation.

92 609.5-2. Notwithstanding the restrictions of 609.5-1, nothing in this law may be construed as
93 preventing the following persons from entering Tribal land, regardless of the land designation:

- 94 (a) Employees of the Nation who are performing their job duties;
95 (b) Those persons who are performing grant or contractual obligations related to the
96 Tribal land and on behalf of the Nation;
97 (c) Emergency personnel who are providing, or attempting to provide, services; and
98 (d) Those persons who have been granted access to the land by the Environmental
99 Resource Board.

100 609.5-3. *Development of the Land Access Map.* The Environmental Resource Board shall
101 develop the Land Access Map in coordination with the Oneida Environmental Health and Safety
102 Division, the Oneida Division of Land Management, Geographic Land Information Systems and
103 other such designated agencies of the Nation. The Environmental Resource Board shall adopt
104 the initial Land Access Map.

105 609.5-4. *General Land Designation.* Unless otherwise designated, Tribal land is designated as
106 limited access.

107 609.5-5. *Amending the Land Access Map.* The Environmental Resource Board may, from time
108 to time, in the manner hereafter set forth, amend the Land Access Map, provided that due
109 consideration must be made for the intent and purposes of the designation.

110 (a) Amendments may be proposed by any person by filing an application with the
111 Environmental Resource Board in such format and accompanied by such information as
112 required by the Board.

113 (b) *Public Hearing.* The Environmental Resource Board shall hold a public hearing on
114 each application to amend the Land Access Map.

115 (1) The Environmental Resource Board shall set a date for the public hearing and
116 meet the notice requirements of the public hearing as soon as possible after the
117 filing of the application is complete.

118 (A) *Notice.* Not less than ten (10) business days and not more than thirty
119 (30) business days prior to the public hearing, notice, including the time,
120 place and purpose of the public hearing, must be:

- 121 (i) published in the Nation’s newspaper; and
122 (ii) mailed to all owners of land located within twelve hundred
123 (1,200) feet of the outer boundaries of the land that is the subject of
124 the public hearing.

125 (B) Any person who cannot attend the public hearing may be represented
126 by an agent, advocate or attorney at the public hearing.

127 (C) In addition to accepting oral comments at the public meeting, the
128 Environmental Resource Board shall also accept written comments, which
129 must be submitted within five (5) business days of the date of the public
130 meeting.

131 (D) The Environmental Resource Board shall issue a decision or
132 recommendation regarding amendments to the Land Access Map within
133 seven (7) business days after the public hearing is held.

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- 134 (2) The Environmental Resource Board together with the Environmental Health
135 and Safety Division shall, after holding a public hearing and reviewing any
136 comments received, make written findings of fact and determine whether to
137 amend the Land Access Map.
- 138 (3) The Environmental Resource Board shall make findings based upon the
139 evidence presented to it with respect to the following matters:
- 140 (A) Existing uses of the land and buildings within the general area of the
141 land in question.
- 142 (B) Suitability of the land in question to the uses permitted under the
143 existing Land Access Map.
- 144 (4) The Environmental Resource Board may not amend the Land Access Map
145 unless it finds that adopting such amendment is in the Nation's best interest and is
146 not solely for the interest of the applicant.
- 147 (c) The Environmental Resource Board may grant or deny any application to amend the
148 Land Access Map; however, amendments must require a two-thirds (2/3) vote of the
149 Environmental Resource Board if a written protest against any amendment is presented to
150 the Environmental Resource Board and is signed by:
- 151 (1) the lessees, assignees and owners of at least twenty percent (20%) of the acres
152 of land included in such amendment; or
- 153 (2) the lessees, assignees and owners of at least twenty percent (20%) of the land
154 immediately adjacent to the land included in such amendment, extending in a
155 radius of twelve hundred (1,200) feet of the outer boundaries of the land.
- 156

157 **609.6. Trespass**

158 609.6-1. A person trespasses if the person enters or otherwise occupies Tribal land and:

- 159 (a) Refuses to leave land to which the person has no reasonable claim or right of
160 possession when requested to do so.
- 161 (b) Enters upon such land after being noticed by the landowner or occupant that
162 permission for the person to enter such land does not exist, or has been expressly denied
163 or revoked. A person has been noticed that permission by the landowner or occupant for
164 such person to enter such land does not exist if he or she has been notified publicly, by
165 publication of the Land Access Map on the Nation's website and/or in the Nation's
166 newspaper, or if the land is posted. Land is considered to be posted if one (1) of the
167 following requirements is met:
- 168 (1) A sign at least eleven inches (11") square is placed in at least two (2)
169 conspicuous places for every forty (40) acres of land to be protected. The sign
170 shall provide an appropriate notice and the name of the person giving the notice,
171 followed by the word "owner" if the person is the holder of legal title to the land
172 or by the word "occupant" if the person is a lawful occupant of the land, but not
173 the holder of legal title.
- 174 (2) Markings at least one foot (1') long and, in a contrasting color, the phrase
175 "private land" and the name of the owner, are made in at least two (2)
176 conspicuous places for every forty (40) acres of land.

- 177 (c) Does any of the following without proper authorization through a lease, permit or as
 178 otherwise required under applicable law:¹
- 179 (1) Destroys land, waters, livestock, poultry, buildings, equipment, or any
 180 property without consent or permission.
 - 181 (2) Cuts or destroys any wood, timber, plant, vegetation, or crop standing on the
 182 land, or carries away any wood, timber, plant, vegetation or crop on the land.
 - 183 (3) Engages in any act, or attempted act of hunting, trapping or fishing.
 - 184 (4) Digs, takes, or carries away earth, soil, minerals, cultural resources, or any
 185 other property.
 - 186 (5) Erects, puts up, fastens, prints, or paints upon another's property, notices,
 187 advertisements, signs or other writing designed to communicate to the general
 188 public.
 - 189 (6) Parks or drives any vehicle on the land.
 - 190 (7) Permits or allows livestock or any domesticated animal to enter upon or
 191 remain upon the land.
 - 192 (8) Uses or possesses leased or sub-leased lands beyond the possessory rights
 193 granted by such lease or sub-lease.
 - 194 (9) Dumps, deposits, places, throws, burns, emits or leaves rubbish, refuse, debris,
 195 substances, or other objects upon a highway, road, air, waters or any land.

197 **609.7. Violations, Enforcement and Appeals**

198 609.7-1. *Citations.* Citations for the violation of this law and/or orders issued pursuant to this
 199 law may include fines, penalties and conditional and other orders in accordance with the citation
 200 schedule applicable to this law. A separate offense shall be deemed committed on each day
 201 during or on which a violation occurs or continues. The issuance of a citation or fine under any
 202 other law relating to the same or any other matter does not preclude the issuance of a citation
 203 under this law.

204 (a) Any order issued pursuant to this law that is not complied with may be physically
 205 enforced by Oneida Police Officers or Oneida Conservation Wardens at the Owner's
 206 expense.

207 (b) The Oneida Police Department, by means of Oneida Police Officers and Oneida
 208 Conservation Wardens, is authorized to take any appropriate action to prevent or remove
 209 a violation of this Law.

210 609.7-2. *Hearing and Appeals of Contested Actions.* All citations, orders and declarations
 211 issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which
 212 shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after
 213 the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at
 214 which time the Judiciary Trial Court shall accept pleas which either contest or admit committing
 215 the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously
 216 as possible, provided that it shall be scheduled within ninety (90) days of the date of the
 217 prehearing, for all persons entering a plea contesting the fact that they committed the act for

¹ Current Tribal laws that authorize conduct described in 609.6-1(c): Protection and Management of Archeological and Historical Resources; Oneida Tribal Regulation of Domestic Animals Ordinance; Tribal Environmental Response Law; Wood Cutting Ordinance; Recycling and Solid Waste Disposal; Hunting, Fishing and Trapping Law; All-Terrain Vehicle Law; Zoning and Shoreland Protection Law.

218 which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also
219 make conditional orders at the prehearing which are effective until the matter is resolved.

220 (a) *Community Service*. Community service may be substituted for monetary fines at the
221 Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of
222 one (1) hour per ten dollars (\$10) of the fine.

223 (b) *Allocation of Citation Revenue*. All citations shall be paid to the Environmental
224 Resource Board or its designee, the proceeds of which shall be contributed to General
225 Fund.

226 (c) *Appealing the Decision of the Judiciary Trial Court*. Any person wishing to contest
227 the determination of the Judiciary Trial Court may appeal to the Judiciary Court of
228 Appeals in accordance with the Rules of Appellate Procedure.

229 (d) *Pursuing Payment of a Citation*. The Environmental Resource Board may pursue
230 payment from parties who have failed to make the required payments through the
231 garnishment process contained in the Garnishment law and/or by attaching the judgment
232 to Tribal member's per capita payment pursuant to the Per Capita law.
233

234 *End.*
235

236 Adopted – BC-05-15-14-C

237 Emergency Amended – BC-07-23-14-C

238 Amended – BC-12-10-14-A

239 Emergency Amended – BC 07-08-15-C

240 Amended – BC-01-13-16-C

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Title 6. Property and Land – Chapter 609
PUBLIC USE OF TRIBAL LAND
Tsi> yuhw<tsya-t# tewatenhot&kwa> Ukwehuw#-ne
That of the earth one opens it up Oneida Nation

609.1. Purpose and Policy

609.2. Adoption, Amendment, Repeal

609.3. Definitions

609.4. Environmental Resource Board

609.5. Land Access Map

609.6. Trespass

609.7. Violations and Appeals

1

2 **609.1. Purpose and Policy**3 609.1-1. *Purpose.* The purpose of this Lawlaw is to prevent improper access, use and
4 Trespasstrespass to Tribal Landslands.5 609.1-2. *Policy.* It is the policy of the TribeNation to limit access to Tribal Landslands to
6 protect and preserve the environment and natural resources including forests, wildlife, air and
7 waters, through appropriate uses of the land.

8

9 **609.2. Adoption, Amendment, Repeal**10 609.2-1. This Lawlaw was adopted by the Oneida Business Committee by resolution BC-05-
11 15-14-C and amended by BC-12-10-14-A and BC-01-13-16-C.12 609.2-2. This Lawlaw may be amended or repealed by the Oneida Business Committee
13 pursuant to the procedures set out in the Legislative Procedures Act.14 609.2-3. Should a provision of this Lawlaw or the application thereof to any Personperson or
15 circumstances be held as invalid, such invalidity does not affect other provisions of this Lawlaw
16 which are considered to have legal force without the invalid portions.17 609.2-4. In the event of a conflict between a provision of this Lawlaw and a provision of
18 another law, the provisions of this Lawlaw controls.19 609.2-5. This Lawlaw is adopted under authority of the Constitution of the Oneida Tribe of
20 Indians of Wisconsin Nation.21 609.2-6. This Lawlaw may not be construed to preclude the TribeNation from pursuing relief
22 for criminal Trespasstrespass under applicable law.

23

24 **609.3. Definitions**25 609.3-1. This section governs the definitions of words and phrases used within this Lawlaw.
26 All words not defined herein are to be used in their ordinary and everyday sense.27 (a) “Designation” means the term used to describe the type of access granted to certain
28 Tribal Landslands.29 (b) “Fine” means a monetary punishment issued to a person violating this Lawlaw and/or
30 the Rulesrules created pursuant to this Lawlaw, which is payable to ERB or the
31 Department within the amount of time designated by the Rulesrules.32 (c) “Lease” means any lease or agreement, including business site leases, entered into by
33 the TribeNation and any Personperson to allow the use of Tribal Landslands.34 ~~(d)~~ “Nation” means the Oneida Nation.35 ~~(e)~~ “Person” means any individual, group of individuals, corporation, partnership, limited
36 liability company, or any other form of business organization.37 ~~(f)~~ “Penalty” means a punishment, other than a Finefine, imposed on a person violating
38 this Lawlaw and/or the Rulesrules created pursuant to this Lawlaw and may include, but

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39 | is not limited to, the confiscation of equipment, the imposition of a ~~Wildlife~~wildlife
40 | protection assessment (civil recovery value), and restitution.

41 | (fg) “Reservation” means all the lands and waters within the exterior boundaries of the
42 | Reservation of the Oneida ~~Tribe of Indians of Wisconsin~~Nation, as created pursuant to
43 | the 18609 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to
44 | federal law.

45 | (gh) “Trespass” means the unauthorized use or entry on Tribal ~~Lands~~lands,
46 | including unauthorized uses under a ~~Tribal~~any law, ~~rule~~, permit or ~~Lease~~.

47 | (h) ~~“Tribal” or “Tribe” means~~ ~~lease of~~ the ~~Oneida Tribe of Indians of Wisconsin~~Nation.

48 | (i) “Tribal Land” means all ~~Tribal~~of the Nation’s trust lands, and any land or interest in
49 | land held by the ~~Oneida Tribe~~Nation in fee or in any other form on the Reservation.

51 | **609.4. Environmental Resource Board**

52 | 609.4-1. The Environmental Resource Board has the duty and power to carry out the intent and
53 | purposes of this ~~Law~~law and enforce the provisions of this ~~Law~~law. The Environmental
54 | Resource Board, or designated staff, shall:

55 | (a) Develop, approve and maintain the Land Access Map.

56 | (b) Hold public hearings on proposed amendments to the Land Access Map.

57 | (c) ~~Hear and decide, as the original hearing body, contested cases that may arise under~~
58 | ~~this Law.~~

59 | (d) ~~Impose hearing costs and restitution against the Person for damages caused by a~~
60 | ~~violation of this Law.~~

61 | (e) ~~Determine which Tribal~~ ~~Land~~land will be posted and ensure the appropriate signs are
62 | posted.

63 | (fd) Implement and interpret the provisions of this ~~Law~~law.

64 | (ge) As it deems appropriate, prescribe permissible and/or prohibited uses for Tribal
65 | ~~Land~~land that it designates as Oneida Community Access, Oneida Tribal Member Access
66 | or Open Access, provided that such permissible and/or prohibited uses may not contradict
67 | with the Zoning and Shoreland Protection Ordinance. Upon establishment of permissible
68 | and/or prohibited uses, the Environmental Resource Board shall notify the Oneida
69 | Business Committee of the permissible and/or prohibited uses and shall post notice of
70 | such uses on the affected Tribal Land.

72 | **609.5. Land Access Map**

73 | 609.5-1. *Designation of Tribal Lands.* A Land Access Map must be created which designates
74 | Tribal ~~Land~~land as one (1) of the following:

75 | (a) Limited Access: Lands designated as “Limited Access” are open to all
76 | ~~Persons~~persons who are granted land access permission by the ~~Tribe~~Nation through a
77 | permit or ~~Lease~~lease for specified purposes. The Environmental Resource Board may
78 | choose to designate a portion of land as Limited Access in order to manage, preserve and
79 | protect that land for environmental, cultural or other significance.

80 | (b) Oneida Community Access: Lands designated as “Oneida Community Access” are
81 | open to Tribal members, and their spouses and descendants; members of other federally
82 | recognized Indian tribes, bands or communities; authorized employees of the
83 | ~~Tribe~~Nation; and ~~Persons~~persons who are accompanied at all times by a Tribal member,
84 | the spouse or descendant of a Tribal member, or an authorized employee of the
85 | ~~Tribe~~Nation.

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- 86 | (1) A Conservation Warden or Oneida Police Officer may require a Person~~person~~
87 | to provide proof of eligibility to use Oneida Community Access lands.
- 88 | (2) The Environmental Resource Board may choose to designate land as Oneida
89 | Community Access in order to manage, preserve and protect access to locations
90 | that have cultural or environmental significance.
- 91 | (c) Oneida Tribal Member Access: Lands designated as “Oneida Tribal Member Access”
92 | are open to Tribal members only. The Environmental Resource Board may designate
93 | land as Oneida Tribal Member Access to protect the land for Tribal member use due to
94 | the historical, spiritual, cultural and/or environmental significance of the land.
- 95 | (d) Open: Lands designated as “Open Access” are generally open to all Persons~~persons~~
96 | for the land’s designated use and enjoyment. The Environmental Resource Board may
97 | designate land as Open Access where such Designation~~designation~~ is deemed beneficial
98 | to the Tribe~~Nation~~ and where such Designation~~designation~~ does not pose significant risk
99 | of damage to the Nation’s~~of the Tribe~~ policies and/or the land’s cultural or
100 | environmental preservation.
- 101 | 609.5-2. Notwithstanding the restrictions of 609.5-1, nothing in this Law~~law~~ may be construed
102 | as preventing the following Persons~~persons~~ from entering Tribal Land~~land~~, regardless of the land
103 | Designation~~designation~~:
- 104 | (a) Employees of the Tribe~~Nation~~ who are performing their job duties;
105 | (b) Those Persons~~persons~~ who are performing grant or contractual obligations related to
106 | the Tribal Land~~land~~ and on behalf of the Tribe~~Nation~~;
107 | (c) Emergency personnel who are providing, or attempting to provide, services; and
108 | (d) Those Persons~~persons~~ who have been granted access to the land by the
109 | Environmental Resource Board.
- 110 | 609.5-3. *Development of the Land Access Map.* The Environmental Resource Board shall
111 | develop the Land Access Map in coordination with the Oneida Environmental Health and Safety
112 | Division, the Oneida Division of Land Management, Geographic Land Information Systems and
113 | other such designated agencies of the Tribe~~Nation~~. The Environmental Resource Board shall
114 | adopt the initial Land Access Map.
- 115 | 609.5-4. *General Land Designation.* Unless otherwise designated, Tribal Land~~land~~ is
116 | designated as Limited Access~~limited access~~.
- 117 | 609.5-5. *Amending the Land Access Map.* The Environmental Resource Board may, from time
118 | to time, in the manner hereafter set forth, amend the Land Access Map, provided that due
119 | consideration must be made for the intent and purposes of the Designation~~designation~~.
- 120 | (a) Amendments may be proposed by any Person~~person~~ by filing an application with the
121 | Environmental Resource Board in such format and accompanied by such information as
122 | required by the Board.
- 123 | (b) *Public Hearing.* The Environmental Resource Board shall hold a public hearing on
124 | each application to amend the Land Access Map.
- 125 | (1) The Environmental Resource Board shall set a date for the public hearing and
126 | meet the notice requirements of the public hearing as soon as possible after the
127 | filing of the application is complete.
- 128 | (A) *Notice.* Not less than ten (10) business days and not more than thirty
129 | (30) business days prior to the public hearing, notice, including the time,
130 | place and purpose of the public hearing, must be:
131 | (i) published in the Tribe~~Nation’s~~ newspaper; and

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132 (ii) mailed to all owners of land located within twelve hundred
133 (1,200) feet of the outer boundaries of the land that is the subject of
134 the public hearing.

135 (B) Any Person who cannot attend the public hearing may be
136 represented by an agent, advocate or attorney at the public hearing.

137 (C) In addition to accepting oral comments at the public meeting, the
138 Environmental Resource Board shall also accept written comments, which
139 must be submitted within five (5) business days of the date of the public
140 meeting.

141 (D) The Environmental Resource Board shall issue a decision or
142 recommendation regarding amendments to the Land Access Map within
143 seven (7) business days after the public hearing is held.

144 (2) The Environmental Resource Board together with the Environmental Health
145 and Safety Division shall, after holding a public hearing and reviewing any
146 comments received, make written findings of fact and determine whether to
147 amend the Land Access Map.

148 (3) The Environmental Resource Board shall make findings based upon the
149 evidence presented to it with respect to the following matters:

150 (A) Existing uses of the land and buildings within the general area of the
151 land in question.

152 (B) Suitability of the land in question to the uses permitted under the
153 existing Land Access Map.

154 (4) The Environmental Resource Board may not amend the Land Access Map
155 unless it finds that adopting such amendment is in the Tribal Nation's best
156 interest and is not solely for the interest of the applicant.

157 (c) The Environmental Resource Board may grant or deny any application to amend the
158 Land Access Map; however, amendments must require a two-thirds (2/3) vote of the
159 Environmental Resource Board if a written protest against any amendment is presented to
160 the Environmental Resource Board and is signed by:

161 (1) the lessees, assignees and owners of at least twenty percent (20%) of the acres
162 of land included in such amendment; or

163 (2) the lessees, assignees and owners of at least twenty percent (20%) of the land
164 immediately adjacent to the land included in such amendment, extending in a
165 radius of twelve hundred (1,200) feet of the outer boundaries of the land.

166
167 **609.6. Trespass**

168 609.6-1. A Person ~~Trespasses~~ person trespasses if the Person enters or otherwise
169 occupies Tribal Land and:

170 (a) Refuses to leave land to which the Person has no reasonable claim or right of
171 possession when requested to do so.

172 (b) Enters upon such land after being noticed by the landowner or occupant that
173 permission for the Person to enter such land does not exist, or has been expressly
174 denied or revoked. A Person has been noticed that permission by the landowner or
175 occupant for such Person to enter such land does not exist if he or she has been
176 notified publicly, by publication of the Land Access Map on the Tribal Nation's website
177 and/or in the Tribal Nation's newspaper, or if the land is posted. Land is considered to be
178 posted if one (1) of the following requirements is met:

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- 179 | (1) A sign at least eleven (~~11~~) inches (11") square is placed in at least two (2)
180 | conspicuous places for every forty (40) acres of land to be protected. The sign
181 | shall provide an appropriate notice and the name of the ~~Person~~person giving the
182 | notice, followed by the word "owner" if the ~~Person~~person is the holder of legal
183 | title to the land or by the word "occupant" if the ~~Person~~person is a lawful
184 | occupant of the land, but not the holder of legal title.
185 | (2) Markings at least one (~~1~~)-foot (1') long and, in a contrasting color, the phrase
186 | "private land" and the name of the owner, are made in at least two (2)
187 | conspicuous places for every forty (40) acres of land.
- 188 | (c) Does any of the following without proper authorization through a ~~Lease~~lease, permit
189 | or as otherwise required under applicable law:¹
- 190 | (1) Destroys land, waters, livestock, poultry, buildings, equipment, or any
191 | property without consent or permission.
192 | (2) Cuts or destroys any wood, timber, plant, vegetation, or crop standing on the
193 | land, or carries away any wood, timber, plant, vegetation or crop on the land.
194 | (3) Engages in any act, or attempted act of hunting, trapping or fishing.
195 | (4) Digs, takes, or carries away earth, soil, minerals, cultural resources, or any
196 | other property.
197 | (5) Erects, puts up, fastens, prints, or paints upon another's property, notices,
198 | advertisements, signs or other writing designed to communicate to the general
199 | public.
200 | (6) Parks or drives any vehicle on the land.
201 | (7) Permits or allows livestock or any domesticated animal to enter upon or
202 | remain upon the land.
203 | (8) Uses or possesses ~~Leased~~leased or sub-~~Leased~~leased lands beyond the
204 | possessory rights granted by such ~~Lease~~lease or sub-~~Lease~~lease.
205 | (9) Dumps, deposits, places, throws, burns, emits or leaves rubbish, refuse, debris,
206 | substances, or other objects upon a highway, road, air, waters or any land.

609.7. **Violations, Enforcement and Appeals**

- 209 | 609.7-1. ~~Issuance of a Citation. Any Person who violates any provision Citations. Citations~~
210 | ~~for the violation~~ of this ~~Law is guilty of a civil infraction,law~~ and ~~may be/or orders~~ issued
211 | ~~apursuant to this law may include fines, penalties and conditional and other orders in accordance~~
212 | ~~with the~~ citation, ~~in writing, by a Conservation Warden or Oneida Police Officer. schedule~~
213 | ~~applicable to this law. A separate offense shall be deemed committed on each day during or on~~
214 | ~~which a violation occurs or continues.~~ The issuance of a citation or ~~Fine~~fine under any other law
215 | relating to the same or any other matter does not preclude the issuance of a citation under this
216 | ~~Law~~law.
217 | ~~(a) The Oneida Business Committee, upon recommendation of the Environmental~~
218 | ~~Resource Board, may adopt a citation schedule.~~

¹ Current Tribal laws that authorize conduct described in 609.6-1(c): Protection and Management of Archeological and Historical Resources; Oneida Tribal Regulation of Domestic Animals Ordinance; Tribal Environmental Response Law; Wood Cutting Ordinance; Recycling and Solid Waste Disposal; Hunting, Fishing and Trapping Law; All-Terrain Vehicle Law; Zoning and Shoreland Protection Law.

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219 (a) Any order issued pursuant to this law that is not complied with may be physically
220 enforced by Oneida Police Officers or Oneida Conservation Wardens at the Owner's
221 expense.

222 ~~(b) The citation must state that the Environmental Resource Board may, in addition to the~~
223 ~~citation Oneida Police Department, by means of Oneida Police Officers and associated~~
224 ~~Fine, impose hearing costs and Penalties against the Person for Oneida Conservation~~
225 ~~Wardens, is authorized to take any appropriate action to prevent or remove~~ a violation of
226 this Law.

227 609.7-2. Citation-Hearing- and Appeals of Contested Actions. All citations, orders and
228 declarations issued pursuant to this ~~Law must~~ law shall include a ~~Prehearing~~ pre-hearing date with
229 the Judiciary Trial Court which ~~must~~ shall be set for the next scheduled monthly
230 ~~Prehearing~~ prehearing date that is at least thirty (30) days after the citation was issued. Persons
231 wishing to contest a citation ~~must~~ shall appear at the ~~Prehearing~~ prehearing, at which time the
232 ~~Environmental Resource Board~~ Judiciary Trial Court shall accept pleas which either contest or
233 admit committing the act for which the citation was issued. The ~~Environmental Resource~~
234 ~~Board~~ Judiciary shall schedule a ~~Hearing~~ hearing as expeditiously as possible, provided that it
235 ~~must~~ shall be scheduled within ninety (90) days of the date of the ~~Prehearing~~ prehearing, for all
236 persons entering a plea contesting the fact that they committed the act for which a citation was
237 issued. In addition to scheduling requested ~~Hearings~~ hearings, the ~~Environmental Resource~~
238 ~~Board~~ Judiciary may also make conditional orders at the ~~Prehearing~~ prehearing which are effective
239 until the matter is resolved.

240 ~~(a) The Environmental Resource Board shall conduct Prehearings and Hearings in~~
241 ~~accordance with its bylaws and any other applicable regulations, standard operating~~
242 ~~procedures, Rules, laws or policies governing Tribal administrative hearings.~~

243 ~~(b) Community Service.~~ Community service may be substituted for ~~Fines~~ monetary fines
244 at the ~~Environmental Resource Board's~~ Judiciary's discretion, provided that, if so
245 substituted, the ~~Board~~ Judiciary shall use the rate of one (1) hour per ten dollars (\$10) of
246 the ~~Fine~~ fine.

247 ~~(c) (b) Allocation of Citation Revenue.~~ All ~~Fines and Penalties~~ issued by citations
248 ~~must~~ shall be paid to the Environmental Resource Board or its designee, the proceeds of
249 which ~~must~~ shall be contributed to General Fund.

250 (c) Appealing the Decision of the Judiciary Trial Court. Any person wishing to contest
251 the determination of the Judiciary Trial Court may appeal to the Judiciary Court of
252 Appeals in accordance with the Rules of Appellate Procedure.

253 (d) Pursuing Payment of a Citation. The Environmental Resource Board may pursue
254 payment from parties who have failed to ~~makes~~ make the required payments through the
255 garnishment process contained in the Garnishment ~~Law~~ law and/or by attaching the
256 judgment to a Tribal ~~Member's~~ member's per capita payment pursuant to the Per Capita
257 ~~Law~~ law.

258 ~~(e) Community Service.~~ Community service may be substituted for monetary ~~Fines and~~
259 ~~Penalty assessments~~ at ERB's discretion, provided that if so substituted, ERB shall use the
260 rate of one (1) hour per ten dollars (\$10) of the ~~Fine or Penalty assessment~~.

261 ~~(f) Any person wishing to contest ERB's determination related to a contested citation may~~
262 ~~appeal the applicable determination to the Judiciary's Court of Appeals in accordance with~~
263 ~~the Rules of Appellate Procedure, provided that the appeal must be filed within thirty (30)~~
264 ~~days of the date of the Environmental Resource Board's determination.~~

265

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266 | ~~609.7-3.— Appeals from the Environmental Resource Board Decision.— Any party of interest~~
267 | ~~may appeal a decision of the Environmental Resource Board to the Tribe’s judicial system.~~

268
269 *End.*

-
- 271 Adopted – BC-05-15-14-C
 - 272 Emergency Amended – BC-07-23-14-C
 - 273 Amended – BC-12-10-14-A
 - 274 Emergency Amended – BC 07-08-15-C
 - 275 Amended – BC-01-13-16-C

FINANCE ADMINISTRATION
Fiscal Impact Statement



MEMORANDUM

DATE: June 7, 2017

FROM: Rae Skenandore, Project Manager

TO: Larry Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer

RE: **Fiscal Impact of the transfer of the Environmental Resource Board's Hearing Authority to the Oneida Judiciary**

I. Estimated Fiscal Impact Summary

Law: Domestic Animal Hunting, Fishing and Trapping law (HTF) Public Use of Tribal Land (Public Use) Tribal Environmental Response (TERP) Well Abandonment Law (Well Abandonment) All-Terrain Vehicle Law (ATV) Water Resources Ordinance (Water Resources) On-Site Waste Disposal Ordinance (Waste Disposal)	Draft 19 Draft 2 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1
Implementing Agency	Oneida Police Department (OPD) Conservation Environmental Resource Board (ERB) Emergency Management Environmental Health and Safety Division Comprehensive Health Division Oneida Judiciary
Estimated time to comply	January 1, 2018
Estimated Impact	Current Fiscal Year 10 Year Estimate
ERB stipend savings	\$830 \$8,300
Total Estimated Savings	\$830 \$8,300
Revenue and cost considerations	Fee Schedules should be removed from the various Laws
Uncertainties and Unknowns	None

II. Background

A. Legislative History

The Oneida Business Committee created the Environmental Resource Board through Resolution BC-02-22-85-B. GTC Resolution 01-07-13-B established the Oneida Judiciary.

B. Summary of Content

1. The Domestic Animal amendments are being processed separately in order to make further revisions. However, it is included here because there are no additional fiscal impacts due to the amendments.
2. All Laws are being amended to state that the Trial Court is the entity authorized to conduct hearings.
3. Other minor changes, including formatting, have been made to these Laws to comply with drafting style. These changes do not affect the content of these Laws.

C. Methodology and Assumptions

1. A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.
2. Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.
3. The analysis was completed based on the information provided as of the date of this memo.

III. Agency

The hearing authority will simply be transferred from ERB to the Judiciary. Historical hearing stipends paid to the Board were \$750 in 2017, \$1,200 in 2016, and \$700 in 2015. Transferring the hearing authority to the Judiciary would result in an average savings of approximately \$830 annually. The Judiciary does not anticipate any additional costs as this will simply be absorbed into their existing duties. ERB has stated that they expect the transition of the hearing authority to be complete by January 1, 2018

IV. Financial Impact

Approximately \$830 savings annually.

V. Recommendation

Finance does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Consider adoption of the amendments to the All-Terrain Vehicle Law

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="Adoption packet"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jennifer Falck, LRO Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chairperson 
DATE: July 26, 2017
RE: All-Terrain Vehicle Law Amendments

Please find the following attached backup documentation for your consideration of the All-Terrain Vehicle Law Amendments:

1. Resolution: All-Terrain Vehicle Law Amendments
2. Statement of Effect: All-Terrain Vehicle Law Amendments
3. All-Terrain Vehicle Law Amendments: Legislative Analysis
4. All-Terrain Vehicle Law Amendments: Clean Draft
5. All-Terrain Vehicle Law Amendments: Redline to Current Draft
6. All-Terrain Vehicle Law Amendments: Fiscal Impact Statement

Overview

This resolution adopts amendments to the All-Terrain Vehicle Law to transfer the Environmental Resource Board's hearing authority to the Judiciary.

In accordance with the Legislative Procedures Act, a public meeting was held regarding this law on June 15, 2017 with a comment period closing on June 29, 2017. There were no comments provided. These amendments will become effective beginning in the new fiscal year on October 1, 2017.

Requested Action

Approve the Resolution: All-Terrain Vehicle Law Amendments

BC Resolution _____*All-Terrain Vehicle Law Amendments*

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WHEREAS, the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, the Oneida Business Committee originally adopted the All-Terrain Vehicle Law through resolution BC-06-16-04-B; and

WHEREAS, the Amendments to the Law transfer the Environment Resource Board's original hearing body authority and responsibilities to the Oneida Judiciary as part of an effort to standardize and streamline all of the Nation's hearing responsibilities; and

WHEREAS, a public meeting on the proposed Amendments was held on June 15, 2017 in accordance with the Legislative Procedures Act; and

NOW THEREFORE BE IT RESOLVED, that the All-Terrain Vehicle Law Amendments are hereby adopted and shall become effective on October 1, 2017.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



Statement of Effect

All-Terrain Vehicle Law Amendments

Summary

This Resolution adopts Amendments to the All-Terrain Vehicle Law (the “Law”) which transfer the Environmental Resource Board’s original hearing body authority to the Oneida Judiciary.

Submitted by: Krystal L. John, Staff Attorney, Oneida Law Office

Analysis by the Legislative Reference Office

As stated above, these amendments will transfer the delegation of original hearing body authority from the Environmental Resource Board to the Oneida Judiciary. Such a transfer would implicate the Judiciary law and the Environmental Resource Board’s by-laws.

The transfer of hearing body authority would fit into the Oneida Judiciary’s subject matter jurisdiction according to the Judiciary law based on section 801.5-2, which provides that, “The Trial Court shall have subject matter jurisdiction over cases and controversies arising under the following... (a) Tribal laws which specifically authorize the Trial Court to exercise jurisdiction...” 8 O.C. 801 § 801.5-2. The amendments to the Law specifically authorize the Trial Court to exercise jurisdiction based on section 410.7-2. *Hearing and Appeals of Contested Actions*, which reads as follows:

All citations, orders and declarations issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all persons entering a plea contesting the fact that they committed the act for which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also make conditional orders at the prehearing which are effective until the matter is resolved. ...

(c) Appealing the Decision of the Judiciary Trial Court. Any person wishing to contest the determination of the Judiciary Trial Court may appeal to the Judiciary Court of Appeals in accordance with the Rules of Appellate Procedure. ...

The Environmental Resource Board’s by-laws provide the Board’s duties and responsibilities, among other things. Adoption of this law conflicts with the Board’s by-laws and the by-laws recognize the Environmental Resource Board’s original hearing body authority in section 1-4.b., which reads as follows: “The ERB shall serve as the original hearing body in matters concerning environmental and conservation laws and ordinances promulgated by the Oneida Tribe.” Accordingly, if this resolution is adopted, the Environmental Resource Board’s by-laws would need to be amended to remove the original hearing body authority from the Board’s duties and responsibilities.

A public meeting was held for these Amendments on June 15, 2017 for which the public comment period expired on June 22, 2017 in accordance with the Legislative Procedures Act. There were not any oral or written comments submitted.

Conclusion

Adoption of this Resolution would require the Environmental Resource Board's by-laws to be amended to remove the original hearing body authority from the Board's duties and responsibilities.



Hearing Authority Transfer Legislative Analysis

SECTION 1. BACKGROUND

REQUESTER: LOC	SPONSOR: Tehassi Hill	DRAFTER: Krystal L. John	ANALYST: Candice E. Skenandore
Intent of the Amendments	To further utilize the Judiciary.		
Purpose	To transfer the Environmental Resource Board (ERB) hearing authority to the Judiciary.		
Affected Entities	Trial Court, ERB		
Affected Legislation	Hunting, Fishing and Trapping law, Public Use of Tribal Land, Tribal Environmental Response, Well Abandonment Law, All-Terrain Vehicle Law, Water Resources Ordinance		
Enforcement/Due Process	ERB will no longer hold hearings; hearing will now be conducted by the Trial Court in accordance with the Rules of Civil Procedure.		
Public Meeting	A public meeting was held on June 15, 2017.		

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A.** Since 1985, ERB served as the hearing body authority over the Nation's environmental regulations.
- 3 On May 2, 1990, the Oneida Business Committee established the Oneida Tribal Judicial System (aka
- 4 Oneida Appeals Commission) and General Tribal Council reauthorized the Oneida Tribal Judicial
- 5 System on August 19, 1991 [*See BC Resolution 05-02-90 and GTC Resolution 8-19-91-A*]. The
- 6 purpose of the Oneida Appeals Commission was to enhance and protect self-governance and
- 7 sovereignty as well as enhance the separation of powers between the legislative, executive and
- 8 juridical responsibilities of the Nation. The Oneida Appeals Commission removed the Oneida
- 9 Business Committee from initial judicial decisions [*See GTC Resolution 8-19-91-A*].
- 10 **B.** In 2013, the General Tribal Council changed the structure of the Oneida Tribal Judicial System by
- 11 creating an Oneida Judiciary comprised of the Tribal Court and a Court of Appeals through the
- 12 adoption of the Judiciary law. The purpose of the Judiciary is to grant the Trial Court and Court of
- 13 Appeals expanded subject matter jurisdiction and create a greater role for the use of mediation and/or
- 14 peacemaking [*See GTC Resolution 01-07-13-B*].
- 15 **C.** These proposed amendments will transfer hearing authority from ERB to the Trial Court. The
- 16 following laws are amended to reflect the transfer of hearing authority:
- 17 ▪ Hunting, Fishing and Trapping law (HTF)
 - 18 ▪ Public Use of Tribal Land (Public Use)
 - 19 ▪ Tribal Environmental Response (TERP)
 - 20 ▪ Well Abandonment Law (Well Abandonment)
 - 21 ▪ All-Terrain Vehicle Law (ATV)
 - 22 ▪ Water Resources Ordinance (Water Resources)
 - 23 ▪ On-Site Waste Disposal Ordinance (Waste Disposal)
- 24

SECTION 3. CONSULTATION

26 A. ERB and the Trial Court have been consulted in the development of this legislative analysis.
27

28 **SECTION 4. PROCESS**

29 A. These Laws have followed the process set forth in the Legislative Procedures Act (LPA) except that
30 the public meeting was not properly noticed to all managers or directors. The LPA requires the public
31 meeting notice, legislation, legislative analysis and fiscal impact statement, if fiscal impact statement is
32 available, to be electronically provided to all managers or directors a minimum of ten business days
33 before a public meeting is held [*See Legislative Procedures Act, 1 O.C. 109.8-2 (b)*]. The notice and
34 backup documents were provided electronically to all managers or directors on Tuesday, June 13, 2017;
35 the public meeting was held Thursday, June 15, 2017. The public meeting was properly noticed in the
36 Kalihwisaks and was made public on the Oneida Register at least ten business days prior to the public
37 meeting as required by the LPA [*See Legislative Procedures Act, 1 O.C. 8-2 (a & b)*]. The LOC
38 extended the public comment period for these laws for an additional five business days, ending on
39 Thursday, June 29, 2017.

40 B. A work meeting with ERB was held on Wednesday, May 17, 2017 and a work meeting with ERB and
41 the Judiciary was held on Monday, June 12, 2017.
42

43 **SECTION 5. CONTENTS OF THE LEGISLATION**

44 A. The identified laws in Section 2.C of this analysis have been amended to state that the Trial Court is
45 the entity authorized to conduct hearings.
46

47 **SECTION 6. INTENT**

48 A. The intent of these amendments is to further utilize the Oneida Judiciary. The LOC has already
49 decided to transfer hearing authority from identified entities to the Judiciary. The majority of the
50 Oneida Land Commission's and some of the Trust Enrollments Committee's hearing authority has
51 already transferred to the Judiciary. Because the LOC is currently working on amendments the
52 Domestic Animals law in which ERB has hearing authority, it was decided to amend all laws which
53 grant ERB hearing authority and transfer that authority to the Judiciary.
54

55 **SECTION 7. EFFECT ON EXISTING LEGISLATION**

56 A. These amendments do not conflict with other laws or policies of the Nation.
57

58 **SECTION 8. OTHER CONSIDERATIONS**

59 A. The following table shows the type and approximate number of hearings ERB has held since 2012.
60 Included are hearings that pertain to Domestic Animals violations; however, the Domestic Animal
61 amendments are being processed separately in order to make further revisions. In total, ERB has held
62 approximately 69 hearings since 2012.
63

64

	ATV	HFT	Waste Disposal	Public Use	TERP	Water Resources	Well Abandonment	Domestic Animal	TOTAL
2012	0	1	0	0	0	0	0	1	2
2013	0	5	0	0	0	0	0	0	5
2014	0	14	0	0	0	0	0	3	17
2015	0	0	0	1	0	0	0	6	7
2016	0	11	0	2	0	0	0	19	32
2017	0	2	0	0	0	0	0	4	6
TOTAL	0	33	0	3	0	0	0	33	69

65 **B.** Minor changes, including formatting, have been made to these laws to comply with drafting style.

66 These changes do not affect the content of these laws.

67 **C.** Please refer to the fiscal impact statement for any financial impacts.

68

69 SECTION 9. ADDITIONAL AMENDMENTS

70 **A. *Hunting, Fishing, and Trapping law (Law)*.** In additions to the amendments which transfer ERB's
71 hearing authority to the Judiciary, additional amendments were made to the Hunting, Fishing, and
72 Trapping law. These amendments include revising section 406.4-3 which states that this Law does
73 not negate the jurisdiction of the State of Wisconsin in instances that involve non-member Indians
74 and non-Indians. This means that non-member Indians and non-Indians hunting, fishing and trapping
75 on land owned by the Nation must adhere to the Nation's license, permit and tag requirements but
76 may also be subject to State requirements. In addition, license and permit holders cannot utilize
77 hunting, fishing, or trapping privileges within the Reservation using a State license that would
78 provide greater privileges than those afforded in this Law and any applicable rules [*See Hunting,*
79 *Fishing and Trapping, 4 O.C. 406.4-3*].

80

2017 07 26 for OBC Consideration
(Draft 1) – Clean

Title 4. Environment and Natural Resources – Chapter 410

ALL-TERRAIN VEHICLE

Kwah Tsyok Nu O’nikasleghto’tł Kayanłhsla

Just all over the place, the type of vehicles, their laws

- 410.1. Purpose and Policy
- 410.2. Adoption, Amendment, Repeal
- 410.3. Definitions
- 410.4. Age Requirements

- 410.5. Rules of Operation
- 410.6. Enforcement
- 410.7. Sanctions

8

9 **410.1-1. Purpose and Policy**

10 410.1-1. The purpose of this law is to govern the safe use of all-terrain vehicles within the
11 Tribal jurisdiction of the Oneida Reservation to allow enforcement for protection of the
12 community members and the environment.

13

14 **410.2. Adoption, Amendment, Repeal**

15 410.2-1. This law was adopted by the [Oneida Business Committee or Oneida General Tribal
16 Council] by resolution BC-6-16-04-B and amended by resolution _____.

17 410.2-2. This law may be amended or repealed by the [Oneida Business Committee and/or
18 Oneida General Tribal Council] pursuant to the procedures set out in the Legislative Procedures
19 Act.

20 410.2-3. Should a provision of this law or the application thereof to any person or
21 circumstances be held as invalid, such invalidity shall not affect other provisions of this law
22 which are considered to have legal force without the invalid portions.

23 410.2-4. In the event of a conflict between a provision of this law and a provision of another
24 law, the provisions of this law shall control.

25 410.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

26 **410.3. Definitions**

27 410.3-1. This section shall govern the definitions of words and phrases used within this law.
28 All words not defined herein, or defined within any section, shall be used in their ordinary and
29 everyday sense.

30 (a) “Agricultural purpose” means a purpose related to beekeeping, operating commercial
31 feedlots, dairying, egg production, floriculture, fish or fur farming, forest and game
32 management, grazing, livestock raising, operating orchards, plant greenhouses or
33 nurseries, poultry raising, raising grain, grass, mint or seed crops, sod farming or raising
34 fruits, nuts, berries or vegetables.

35 (b) “All-terrain vehicle” means an engine-driven device which has a net weight of 900
36 pounds or less, which has a width of 48 inches or less, which is equipped with a seat
37 designed to be straddled by the operator and which is designed to travel on 3 or more
38 low-pressure tires. A low-pressure tire is a tire which has a minimum width of 6 inches,
39 which is designed to be mounted on a rim with a maximum diameter of 12 inches and
40 which is designed to be inflated with an operating pressure not to exceed 6 pounds per
41 square inch as recommended by the manufacturer.

42 (c) “All-terrain vehicle route” means a highway, sidewalk, dirt or gravel trail, designated
43 for use by all-terrain vehicle operators by the Oneida Tribe of Indians of Wisconsin
44 having jurisdiction as authorized under this section.

- 45 (d) "All-terrain vehicle trail" means a marked corridor on public property or on private
46 lands subject to public easement or lease, designated for use by all-terrain vehicle
47 operators by the Oneida Tribe of Indians of Wisconsin having jurisdiction, but excluding
48 roadways of highways except those roadways that are seasonally not maintained for
49 motor vehicle traffic.
- 50 (e) "Conservation Warden" shall mean an employee of the Oneida Conservation
51 Department empowered by the Oneida Tribe of Indians of Wisconsin to enforce the
52 provisions of this Law and regulations promulgated pursuant to this Law. The term
53 Conservation Warden shall include an Officer of the Oneida Police Department.
- 54 (f) "Department" means the Oneida License Department.
- 55 (g) "Highway" means all public ways and thoroughfares and bridges on the same. It
56 includes the entire width between the boundary lines of every way open to the use of the
57 public as a matter of right for the purposes of vehicular travel. It includes those roads or
58 driveways within the Reservation, parks and upon the grounds of Tribal schools.
- 59 (h) "Immediate family" means persons who are related as spouses, as siblings or as
60 parent and child.
- 61 (i) "Implement of husbandry" means a vehicle or piece of equipment or machinery
62 designed for agricultural purposes, used exclusively in the conduct of agricultural
63 operations and used principally off the highway, or a trailer-mounted bulk liquid fertilizer
64 container.
- 65 (j) "Land under the management and control of a person's immediate family" means land
66 owned or leased by the person or a member of the person's immediate family over which
67 the owner or lessee has management control. This term excludes land owned or leased by
68 an organization of which the person or a member of the person's immediate family is a
69 member.
- 70 (k) "Operator" means a person who operates an all-terrain vehicle, who is responsible for
71 the operation of an all-terrain vehicle or who is supervising the operation of an all-terrain
72 vehicle.
- 73 (l) "Owner" means a person who has lawful possession of an all-terrain vehicle by virtue
74 of legal title or equitable interest in the all-terrain vehicle which entitles the person to
75 possession of the all-terrain vehicle.
- 76 (m) "Protective Headgear" means a helmet that is specifically designed for motorcycle or
77 all-terrain vehicle use that meets the United States Department of Transportation
78 standards for motorcycle helmets. A bicycle helmet is not an acceptable protective
79 helmet.
- 80 (n) "Public utility" means any corporation, company, individual or association which
81 furnishes products or services to the public including but not limited to, railroads,
82 telecommunications or telegraph companies and any company furnishing or producing
83 heat, light, power or water.
- 84 (o) "Reservation" shall mean all the lands and waters within the exterior boundaries
85 designated by the Treaty with the Oneida. 7 Stat. 566 (1838).
- 86 (p) "Residential area" shall mean a district where people live; occupied primarily by
87 private residences.
- 88 (q) "Registration documentation" means an all-terrain vehicle registration certificate, a
89 validated registration receipt, or a registration decal.
- 90 (r) "Right of way" means the privilege of the immediate use of the roadway.
- 91 (s) "Small all-terrain vehicle" means an all-terrain vehicle that has 4 wheels and that has

92 either an engine certified by the manufacturer at not more than 90 cubic centimeters or an
93 equivalent power unit.

94 (t) "Tribal Lands" means all lands within the exterior boundaries of the Oneida Indian
95 reservation as defined by the 1838 Treaty, or all land located in Wisconsin which is held
96 in Trust by the United States of America for the benefit of the Oneida Tribe of Indians of
97 Wisconsin.

98 (u) "Nation" means the Oneida Nation.

99 (v) "Used exclusively on private property" means use of an all-terrain vehicle by the
100 owner of the all-terrain vehicle or a member of his or her immediate family only on land
101 owned or leased by the all-terrain vehicle owner or a member of his or her immediate
102 family.

103 104 **410.4. Age Requirements**

105 410.4-1.

106 (a) The minimum age to operate an all-terrain vehicle is twelve (12) years of age unless
107 he or she is operating a small all-terrain vehicle on an all-terrain vehicle trail designated
108 by the Nation and he or she is accompanied by his or her parent.

109 (b) A person who is at least 12 years of age but under 16 years of age may not operate an
110 all-terrain vehicle unless he or she holds a valid all-terrain vehicle safety certificate or is
111 accompanied by a person over 18 years of age.

112 113 **410.5. Rules of Operation**

114 410.5-1. No person shall operate an all-terrain vehicle:

115 (a) In any careless way so as to endanger the safety of himself or herself or the property
116 or the safety of another person or property.

117 (b) On the private property of another without the consent of the owner or lessee. Failure
118 to post private property does not imply consent for all-terrain vehicle use.

119 (c) On Tribal lands without the consent of the Nation or Indian owner. Failure to post
120 Tribal lands does not imply consent for all-terrain vehicle use.

121 (d) With any firearms in his or her possession unless it is unloaded and enclosed in a
122 carrying case, or any bow unless it is unstrung or enclosed in a carrying case, within the
123 Reservation and on public highways.

124 (e) To drive, pursue, take, catch, kill, hunt, trap or harvest any animal except as a part of
125 normal farming operations involving the driving of livestock.

126 (f) When within 150 feet of a dwelling at a speed exceeding 10 miles per hour without
127 owners consent.

128 (g) On the frozen surface of public waters within 100 feet of a person not in or on an all-
129 terrain vehicle or motor vehicle or within 100 feet of a fishing shanty at a speed
130 exceeding 10 miles per hour.

131 (h) On any pathways or sidewalks specified for pedestrian use.

132 (i) On any public, church, school property, cemetery, burial ground, campground, park or
133 business properties, airport or landing facility without consent.

134 (j) Without wearing the required eye protection such as goggles, sunglasses, or glasses.

135 (k) In any streams or creeks.

136 (l) On any project or program assigned land.

137 (m) In a manner which violates rules promulgated by the Nation.

138 (n) In excess of 10 mph when traveling within 100 feet of a person not on an all-terrain

- 139 vehicle, snowmobile or motorcycle.
- 140 (o) Outside or off of any designated all-terrain route or trail.
- 141 410.5-2. *Rental of All Terrain Vehicles.*
- 142 (a) No person who is engaged in the rental or leasing of all-terrain vehicles to the public
- 143 may do any of the following:
- 144 (1) Rent or lease an all-terrain vehicle for operation by a person who will be
- 145 operating an all-terrain vehicle for the first time unless the person engaged in the
- 146 rental or leasing gives the person instruction on how to operate an all-terrain
- 147 vehicle.
- 148 (2) Rent or lease an all-terrain vehicle to a person under 16 years of age.
- 149 (3) Rent or lease an all-terrain vehicle without first ascertaining that any person
- 150 under the age of 18 who will be on the all-terrain vehicle has required protective
- 151 headgear
- 152 (b) A person who is engaged in the rental or leasing of all-terrain vehicles to the public
- 153 shall have clean, usable protective headgear available for rent in sufficient quantity to
- 154 provide headgear to all persons under the age of 18 who will be on all-terrain vehicles
- 155 that the person rents or leases.
- 156 (c) The Environmental Resource Board may promulgate rules to establish minimum
- 157 standards for the instruction given under par. (a)1.
- 158 410.5-3. *Use of Headgear.* No person may operate or be a passenger on an all-terrain vehicle
- 159 without wearing protective headgear with the chin strap properly fastened, unless one of the
- 160 following applies:
- 161 (a) The person is at least 18 years of age.
- 162 (b) The all-terrain vehicle is being operated for an agricultural purpose.
- 163 410.5-4. *Operation on or near highways.* All-terrain vehicles may not be operated on any
- 164 highways within the exterior boundaries of the Nation, except for the following:
- 165 (a) All-terrain vehicles owned by the Nation, a municipality, state agency or public utility
- 166 while the operator is engaged in an emergency or in the operation of an all-terrain vehicle
- 167 directly related to the functions of the Nation, a municipality, state agency or public
- 168 utility if safety does not require strict adherence to these restrictions.
- 169 (b) The Nation, a county, town, city or village may block off highways under its
- 170 jurisdiction for the purpose of allowing special all-terrain vehicle and/or public events.
- 171 (c) To cross a highway. The crossing of a roadway is authorized only if the crossing is
- 172 done in the most direct manner practicable, if the crossing is made at a place where no
- 173 obstruction prevents a quick and safe crossing, and if the operator stops the all-terrain
- 174 vehicle prior to the crossing and yields the right-of-way to other vehicles, pedestrians,
- 175 and electric personal assistive mobility devices using the roadway.
- 176 (d) On any roadway which is seasonally not maintained for motor vehicle traffic.
- 177 Operation of an all-terrain vehicle on this type of roadway is authorized only during the
- 178 seasons when no maintenance occurs and only if the roadway is not officially closed to
- 179 all-terrain vehicle traffic.
- 180 (e) To cross a bridge, culvert or railroad right-of-way. The crossing of a bridge, culvert,
- 181 or railroad right-of-way is not authorized if the roadway is officially closed to all-terrain
- 182 vehicle traffic. The crossing is authorized only if the crossing is done in the most direct
- 183 manner practicable, if the crossing is made at a place where no obstruction prevents a
- 184 quick and safe crossing, and if the operator stops the all-terrain vehicle prior to crossing
- 185 and yields to pedestrians, and electric personal assistive mobility devices using the

- 186 highway.
- 187 (f) On highways designated as all-terrain vehicle routes. Operation of all-terrain vehicles
- 188 on a highway which is an all-terrain vehicle route is authorized only for the extreme right
- 189 side of the highway except that left turns may be made from any part of the highway
- 190 which is safe given prevailing conditions.
- 191 (g) On highways if the all-terrain vehicle is an implement of husbandry, if used
- 192 exclusively for agricultural purposes and if the all-terrain vehicle is registered for private
- 193 use.
- 194 410.5-5. *Operation adjacent to highways.* All-terrain vehicles may be operated adjacent to a
- 195 highway on an all-terrain vehicle route or trail if the all-terrain vehicle is operated in the
- 196 following manner:
- 197 (a) At a distance of 10 feet or more from the highway along U.S. numbered highways,
- 198 state and county highways, Tribal roads, town roads, and BIA roads.
- 199 (b) Outside of the highways along town highways.
- 200 (c) During hours of darkness in the same direction as motor vehicle traffic in the nearest
- 201 lane, although during daylight hours travel may be in either direction regardless of the
- 202 flow of motor vehicle traffic.
- 203 (d) Not in excess of the speed limits of the adjacent highway and not to exceed 35 miles
- 204 per hour.
- 205 (e) With due regard to safety and in compliance with rules promulgated by the Nation.
- 206 (f) Not at a rate of speed that is unreasonable or improper under the circumstances.
- 207 410.5-6. *Equipment requirements.*
- 208 (a) A person who operates an all-terrain vehicle during hours of darkness or during
- 209 daylight hours on any highway right-of-way is required to display a lighted headlamp and
- 210 tail lamp on the all-terrain vehicle.
- 211 (b) The headlamp on an all-terrain vehicle is required to display a white light of sufficient
- 212 illuminating power to reveal any person, vehicle or substantial object at a distance of at
- 213 least 200 feet ahead of the all-terrain vehicle.
- 214 (c) The tail lamp on an all-terrain vehicle is required to display a red light plainly visible
- 215 during hours of darkness from a distance of 500 feet to the rear.
- 216 (d) Every all-terrain vehicle is required to be equipped with at least one brake operated
- 217 either by hand or by foot.
- 218 (e) Every all-terrain vehicle is required to be equipped with a functioning muffler to
- 219 prevent excessive or unusual noise.
- 220 410.5-7. *Residential Areas.*
- 221 (a) All-terrain operators in the residential areas:
- 222 (1) Are prohibited from operating all-terrain vehicles from 9pm-6am.
- 223 (2) Shall not operate all-terrain vehicles in excess of 15 miles per hour.
- 224 (3) Shall not operate all-terrain vehicles on sidewalks or yards, unless the operator
- 225 is on his or her own land or leases the land.
- 226 (4) Shall use extra caution, including yielding right of way, whenever pedestrians
- 227 or other motor vehicle traffic are in the near vicinity.
- 228 (5) Shall not cause excessive noise with all-terrain vehicles.
- 229 (6) Shall not use the public driveways of Tribal service providers, unless
- 230 conducting business.
- 231 (7) Shall not use the Tribal residential area as a riding area. In the Tribal
- 232 residential area, all-terrain vehicles should only be utilized to get to and from

233 another area.

234 (A) Operators shall use the shortest distances when entering and exiting
 235 the Tribal residential area. For example, operators going to a residence
 236 within the Tribal residential area must take the most direct route to the
 237 residence.

238 410.5-8. *Accidents.*

239 (a) If an accident results in the death of any person or in the injury of any person which
 240 requires the treatment of the person by a physician, the operator of each all-terrain
 241 vehicle involved in the accident shall give notice of the accident to a conservation warden
 242 or local law enforcement officer as soon as possible and shall file a written report of the
 243 accident within 10 days after the accident to the Oneida Police Department.

244 (b) If the operator of an all-terrain vehicle is physically incapable of making the report
 245 required by this subsection and there was another witness to the accident capable of
 246 making the report, the witness may make the report.

247 410.5-9. *Routes and Trails.*

248 (a) The Nation shall encourage and supervise a system of all-terrain vehicle routes and
 249 trails. The Division of Land Management, in cooperation with the Conservation
 250 Department, shall establish standards and procedures for certifying the designation of all-
 251 terrain vehicle routes and trails.

252 (b) The Nation may specify effective periods for the use of all-terrain vehicle routes and
 253 trails and may restrict or prohibit the operation of an all-terrain vehicle during certain
 254 periods of the year.

255 (c) The Nation shall establish uniform all-terrain vehicle route and trail signs and
 256 standards.

257 (d) Interference with signs and standards are prohibited.

258 (1) No person may intentionally remove, damage, deface, move or obstruct any
 259 uniform all-terrain vehicle route or trail sign or standard or intentionally interfere
 260 with the effective operation of any uniform all-terrain vehicle route or trail sign or
 261 standards if the sign or standard is legally placed by the Nation, the state, any
 262 municipality or any authorized individual.

263 (2) No person may possess any uniform all-terrain vehicle route or trail sign or
 264 standard of the type established by the Nation for the warning, instruction or
 265 information of the public, unless he or she obtained the uniform all-terrain vehicle
 266 route or trail sign or standard in a lawful manner. Possession of a uniform all-
 267 terrain vehicle route or trail sign or standard creates a rebuttable presumption of
 268 illegal possession.

269 (e) Interference with trails prohibited. No person may intentionally obstruct or interfere
 270 with an all-terrain vehicle route or trail.

271 **410.6. Sanctions.**

272 410.6-1. The following sanctions may be imposed for violations of the All-Terrain Vehicle Law:

273 (a) All fines and forfeitures shall be paid to the Nation.

Violation		Sanction
(a) Unlawful rental of all-terrain vehicle	sec. 5-2.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00

(b) Operating all-terrain vehicle in a careless manner	sec. 5-1(a)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(c) Operating all-terrain vehicle on the private property of another without consent	sec. 5-1(b)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$130.00
(d) Operating all-terrain vehicle on Tribal Lands without consent	sec. 5-1(c)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00 Non-Members will be turned over to Oneida Police Department or County Sheriff's Department
(e) Transporting loaded or uncased firearm or a strung or uncased bow on all-terrain vehicle	sec. 5-1(d)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$500.00
(f) Drive, pursue, take, catch, kill, hunt, trap or harvest any animal from an all-terrain vehicle	sec. 5-1(e)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$250.00
(g) Operating all-terrain vehicle within 150 feet of a dwelling at a speed exceeding 10 miles per hour without owners consent	sec. 5-1(f)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(h) Operating all-terrain vehicle on frozen surface of public waters within 100 feet of a person or fishing shanty at a speed exceeding 10 miles per hour	sec. 5-1(g)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(i) Operate/ride all-terrain vehicle without protective headgear	sec. 5-3.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(j) Illegal operation of all-terrain vehicles on or in the vicinity of highways	sec. 5-4.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(k) All-terrain equipment violations	sec. 5-7.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(l) Failure to report all-terrain	sec. 5-9.	1 st Violation: \$25.00 2 nd Violation: \$50.00

vehicle accident		3 rd Violation: \$100.00
(m) Interference with all-terrain vehicle route or trail signs and standards	sec. 5-10(d)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$250.00
(o) Operating on a church property, school property, cemetery, burial ground, campground, parks, business, airport or landing facility without permission	sec. 5-1(i)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$200.00
(p) Operating at a speed that is unreasonable or improper	sec. 5-6(f)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(q) Operating all-terrain vehicle in or on project or program assigned lands	sec. 5-1(l)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(r) Operating in excess of 10mph when traveling within 100 feet of a person not on an all-terrain vehicle, snowmobile or motorcycle	sec. 5-1(n)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(s) Owner permitting operation of all-terrain vehicle by person who does meet age requirements	sec. 4-1.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$140.00
(t) Operating an all-terrain vehicle outside or off the designated route or trail	sec. 5-1(o)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(u) Operating an all-terrain vehicle in Tribal Residential Areas	sec.5-8.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(v) Operating on any pathways or sidewalks specified for pedestrian use	sec. 5-1(h)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(w) Operating all-terrain vehicle without eye protection	sec. 5-1(j)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(x) Operating in any streams or creeks	sec. 5-1(k)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(y) Illegally operating on or adjacent	sec. 5-5.	1 st Violation: \$25.00

to highways		2 nd Violation: \$50.00 3 rd Violation: \$150.00
(z) Obstructing trail.	sec. 5-10 (e)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00

- 274
275 **410.7. Violations, Enforcement and Appeals**
276 410.7-1. *Citations.* Citations for the violation of this law and/or orders issued pursuant to this
277 law may include sanctions, fines, penalties and conditional and other orders in accordance with
278 the schedule developed under section 410.6-1. A separate offense shall be deemed committed on
279 each day during or on which a violation occurs or continues.
- 280 (a) Any order issued pursuant to this law that is not complied with may be physically
281 enforced by Oneida Police Officers or Oneida Conservation Wardens at the Owner's
282 expense.
- 283 (b) The Oneida Police Department, by means of Oneida Police Officers and Oneida
284 Conservation Wardens, is authorized to take any appropriate action to prevent or remove
285 a violation of this Law.
- 286 410.7-2. *Hearing and Appeals of Contested Actions.* All citations, orders and declarations
287 issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which
288 shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after
289 the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at
290 which time the Judiciary Trial Court shall accept pleas which either contest or admit committing
291 the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously
292 as possible, provided that it shall be scheduled within ninety (90) days of the date of the
293 prehearing, for all persons entering a plea contesting the fact that they committed the act for
294 which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also
295 make conditional orders at the prehearing which are effective until the matter is resolved.
- 296 (a) *Community Service.* Community service may be substituted for monetary fines at the
297 Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of
298 one (1) hour per ten dollars (\$10) of the fine.
- 299 (b) *Allocation of Citation Revenue.* All citations shall be paid to the Environmental
300 Resource Board or its designee, the proceeds of which shall be contributed to General
301 Fund.
- 302 (c) *Appealing the Decision of the Judiciary Trial Court.* Any person wishing to contest
303 the determination of the Judiciary Trial Court may appeal to the Judiciary Court of
304 Appeals in accordance with the Rules of Appellate Procedure.
- 305 (d) *Pursuing Payment of a Citation.* The Environmental Resource Board may pursue
306 payment from parties who have failed to make the required payments through the
307 garnishment process contained in the Garnishment law and/or by attaching the judgment
308 to Tribal member's per capita payment pursuant to the Per Capita law.

309 *End.*

310
311

312

313 Emergency Adoption - BC-9-24-03-A
314 Emergency Adoption Extension - BC-3-31-04-C
315 Permanent Adoption - BC-6-16-04-B

2017 07 26 – OBC Consideration
(Draft 1) Redline to Current

Title 4. Environment and Natural Resources – Chapter 410

ALL-TERRAIN VEHICLE

Kwah Tsyok Nu O'nikasleghto'tá Kayanl'hsla

Just all over the place, the type of vehicles, their laws

410.1. Purpose and Policy

410.2. Adoption, Amendment, Repeal

410.3. Definitions

410.4. Age Requirements

410.5. Rules of Operation

410.6. Enforcement

410.7. Sanctions

8

9 **410.1-1. Purpose and Policy**

10 410.1-1. The purpose of this law is to govern the safe use of all-terrain vehicles within the
11 Tribal jurisdiction of the Oneida Reservation to allow enforcement for protection of the
12 community members and the environment.

13

14 **410.2. Adoption, Amendment, Repeal**

15 410.2-1. This law was adopted by the [Oneida Business Committee or Oneida General Tribal
16 Council] by resolution BC-6-16-04-B and amended by resolution _____.

17 410.2-2. This law may be amended or repealed by the [Oneida Business Committee and/or
18 Oneida General Tribal Council] pursuant to the procedures set out in the Legislative Procedures
19 Act.

20 410.2-3. Should a provision of this law or the application thereof to any person or
21 circumstances be held as invalid, such invalidity shall not affect other provisions of this law
22 which are considered to have legal force without the invalid portions.

23 410.2-4. In the event of a conflict between a provision of this law and a provision of another
24 law, the provisions of this law shall control.

25 410.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

26 ~~410.2-1. This law is adopted by the Oneida Business Committee under the authority granted by~~
27 ~~the Oneida General Tribal Council through the Constitution of the Oneida Tribe of Indians of~~
28 ~~Wisconsin.~~

29 ~~410.2-2. This law may be amended pursuant to the procedures set out in the Oneida~~
30 ~~Administrative Procedures Act by the Oneida Business Committee or the Oneida General Tribal~~
31 ~~Council.~~

32 ~~410.2-3. Should a provision of this law or the application thereof to any person or circumstances~~
33 ~~be held as invalid, such invalidity shall not affect other provisions of this law which are~~
34 ~~considered to have legal force without the invalid portions.~~

35 ~~410.2-4. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other~~
36 ~~similar actions which are inconsistent with this policy are hereby repealed unless specifically re-~~
37 ~~enacted after adoption of this law.~~

38

39 **410.3. Definitions**

40 410.3-1. This section shall govern the definitions of words and phrases used within this law.
41 All words not defined herein, or defined within any section, shall be used in their ordinary and
42 everyday sense.

43 (a) "Agricultural purpose" means a purpose related to beekeeping, operating
44 commercial feedlots, dairying, egg production, floriculture, fish or fur farming, forest and
45 game management, grazing, livestock raising, operating orchards, plant greenhouses or

- 46 nurseries, poultry raising, raising grain, grass, mint or seed crops, sod farming or raising
47 fruits, nuts, berries or vegetables.
- 48 | (b)_–“All-terrain vehicle” means an engine-driven device which has a net weight of 900
49 pounds or less, which has a width of 48 inches or less, which is equipped with a seat
50 designed to be straddled by the operator and which is designed to travel on 3 or more
51 low-pressure tires. A low-pressure tire is a tire which has a minimum width of 6 inches,
52 which is designed to be mounted on a rim with a maximum diameter of 12 inches and
53 which is designed to be inflated with an operating pressure not to exceed 6 pounds per
54 square inch as recommended by the manufacturer.
- 55 | (c)_–“All-terrain vehicle route” means a highway, sidewalk, dirt or gravel trail,
56 designated for use by all-terrain vehicle operators by the Oneida Tribe of Indians of
57 Wisconsin having jurisdiction as authorized under this section.
- 58 | (d)_–“All-terrain vehicle trail” means a marked corridor on public property or on private
59 lands subject to public easement or lease, designated for use by all-terrain vehicle
60 operators by the Oneida Tribe of Indians of Wisconsin having jurisdiction, but excluding
61 roadways of highways except those roadways that are seasonally not maintained for
62 motor vehicle traffic.
- 63 | (e)_–“Conservation Warden” shall mean an employee of the Oneida Conservation
64 Department empowered by the Oneida Tribe of Indians of Wisconsin to enforce the
65 provisions of this Law and regulations promulgated pursuant to this Law. The term
66 Conservation Warden shall include an Officer of the Oneida Police Department.
- 67 | (f)_–“Department” means the Oneida License Department.
- 68 | (g)_–“Highway” means all public ways and thoroughfares and bridges on the same. It
69 includes the entire width between the boundary lines of every way open to the use of the
70 public as a matter of right for the purposes of vehicular travel. It includes those roads or
71 driveways within the Reservation, parks and upon the grounds of Tribal schools.
- 72 | (h)_–“Immediate family” means persons who are related as spouses, as siblings or as
73 parent and child.
- 74 | (i)_–“Implement of husbandry” means a vehicle or piece of equipment or machinery
75 designed for agricultural purposes, used exclusively in the conduct of agricultural
76 operations and used principally off the highway, or a trailer-mounted bulk liquid fertilizer
77 container.
- 78 | (j)_–“Land under the management and control of a person’s immediate family” means
79 land owned or leased by the person or a member of the person’s immediate family over
80 which the owner or lessee has management control. This term excludes land owned or
81 leased by an organization of which the person or a member of the person’s immediate
82 family is a member.
- 83 | (k)_–“Operator” means a person who operates an all-terrain vehicle, who is responsible
84 for the operation of an all-terrain vehicle or who is supervising the operation of an all-
85 terrain vehicle.
- 86 | (l)_–“Owner” means a person who has lawful possession of an all-terrain vehicle by
87 virtue of legal title or equitable interest in the all-terrain vehicle which entitles the person
88 to possession of the all-terrain vehicle.
- 89 | (m)_–“Protective Headgear” means a helmet that is specifically designed for motorcycle
90 or all-terrain vehicle use that meets the United States Department of Transportation
91 standards for motorcycle helmets. A bicycle helmet is not an acceptable protective
92 helmet.
- 93 | (n)_–“Public utility” means any corporation, company, individual or association which

94 furnishes products or services to the public including but not limited to, railroads,
 95 telecommunications or telegraph companies and any company furnishing or producing
 96 heat, light, power or water.

97 | (o) _“Reservation” shall mean all the lands and waters within the exterior boundaries
 98 designated by the Treaty with the Oneida. 7 Stat. 566 (1838).

99 | (p) _“Residential area” shall mean a district where people live; occupied primarily by
 100 private residences.

101 | (q) _“Registration documentation” means an all-terrain vehicle registration certificate, a
 102 validated registration receipt, or a registration decal.

103 | (r) _“Right of way” means the privilege of the immediate use of the roadway.

104 | (s) _“Small all-terrain vehicle” means an all-terrain vehicle that has 4 wheels and that
 105 has either an engine certified by the manufacturer at not more than 90 cubic centimeters
 106 or an equivalent power unit.

107 | (t) _“Tribal Lands” means all lands within the exterior boundaries of the Oneida Indian
 108 reservation as defined by the 1838 Treaty, or all land located in Wisconsin which is held
 109 in Trust by the United States of America for the benefit of the Oneida Tribe of Indians of
 110 Wisconsin.

111 | (u) _“TribeNation” means the Oneida [Tribe of Indians of Wisconsin Nation](#).

112 | (v) _“Used exclusively on private property” means use of an all-terrain vehicle by the
 113 owner of the all-terrain vehicle or a member of his or her immediate family only on land
 114 owned or leased by the all-terrain vehicle owner or a member of his or her immediate
 115 family.

117 | 410.4. Age Requirements

118 | 410.4-1.

119 (a) The minimum age to operate an all-terrain vehicle is twelve (12) years of age unless
 120 he or she is operating a small all-terrain vehicle on an all-terrain vehicle trail designated
 121 | by the [TribeNation](#) and he or she is accompanied by his or her parent.

122 (b) A person who is at least 12 years of age but under 16 years of age may not operate an
 123 all-terrain vehicle unless he or she holds a valid all-terrain vehicle safety certificate or is
 124 accompanied by a person over 18 years of age.

126 | 410.5. Rules of Operation

127 | 410.5-1. No person shall operate an all-terrain vehicle:

128 (a) In any careless way so as to endanger the safety of himself or herself or the property
 129 or the safety of another person or property.

130 (b) On the private property of another without the consent of the owner or lessee. Failure
 131 to post private property does not imply consent for all-terrain vehicle use.

132 | (c) On Tribal lands without the consent of the [TribeNation](#) or Indian owner. Failure to
 133 post Tribal lands does not imply consent for all-terrain vehicle use.

134 (d) With any firearms in his or her possession unless it is unloaded and enclosed in a
 135 carrying case, or any bow unless it is unstrung or enclosed in a carrying case, within the
 136 Reservation and on public highways.

137 (e) To drive, pursue, take, catch, kill, hunt, trap or harvest any animal except as a part of
 138 normal farming operations involving the driving of livestock.

139 (f) When within 150 feet of a dwelling at a speed exceeding 10 miles per hour without
 140 owners consent.

141 (g) On the frozen surface of public waters within 100 feet of a person not in or on an all-

- 142 terrain vehicle or motor vehicle or within 100 feet of a fishing shanty at a speed
143 exceeding 10 miles per hour.
- 144 (h) On any pathways or sidewalks specified for pedestrian use.
- 145 (i) On any public, church, school property, cemetery, burial ground, campground, park or
146 business properties, airport or landing facility without consent.
- 147 (j) Without wearing the required eye protection such as goggles, sunglasses, or glasses.
- 148 (k) In any streams or creeks.
- 149 (l) On any project or program assigned land.
- 150 (m) In a manner which violates rules promulgated by the [TribeNation](#).
- 151 (n) In excess of 10 mph when traveling within 100 feet of a person not on an all-terrain
152 vehicle, snowmobile or motorcycle.
- 153 (o) Outside or off of any designated all-terrain route or trail.
- 154 | 410.5-2. Rental of All Terrain Vehicles.
- 155 (a) No person who is engaged in the rental or leasing of all-terrain vehicles to the public
156 may do any of the following:
- 157 (1) Rent or lease an all-terrain vehicle for operation by a person who will be
158 operating an all-terrain vehicle for the first time unless the person engaged in the
159 rental or leasing gives the person instruction on how to operate an all-terrain
160 vehicle.
- 161 (2) Rent or lease an all-terrain vehicle to a person under 16 years of age.
- 162 (3) Rent or lease an all-terrain vehicle without first ascertaining that any person
163 under the age of 18 who will be on the all-terrain vehicle has required protective
164 headgear
- 165 (b) A person who is engaged in the rental or leasing of all-terrain vehicles to the public
166 shall have clean, usable protective headgear available for rent in sufficient quantity to
167 provide headgear to all persons under the age of 18 who will be on all-terrain vehicles
168 that the person rents or leases.
- 169 (c) The [Tribe-Environmental Resource Board](#) may promulgate rules to establish
170 minimum standards for the instruction given under par. (a)1.
- 171 | 410.5-3. Use of Headgear. No person may operate or be a passenger on an all-terrain vehicle
172 without wearing protective headgear with the chin strap properly fastened, unless one of the
173 following applies:
- 174 (a) The person is at least 18 years of age.
- 175 (b) The all-terrain vehicle is being operated for an agricultural purpose.
- 176 | 410.5-4. Operation on or near highways. All-terrain vehicles may not be operated on any
177 highways within the exterior boundaries of the [TribeNation](#), except for the following:
- 178 (a) All-terrain vehicles owned by the [TribeNation](#), a municipality, state agency or public
179 utility while the operator is engaged in an emergency or in the operation of an all-terrain
180 vehicle directly related to the functions of the [TribeNation](#), a municipality, state agency
181 or public utility if safety does not require strict adherence to these restrictions.
- 182 (b) The [TribeNation](#), a county, town, city or village may block off highways under its
183 jurisdiction for the purpose of allowing special all-terrain vehicle and/or public events.
- 184 (c) To cross a highway. The crossing of a roadway is authorized only if the crossing is
185 done in the most direct manner practicable, if the crossing is made at a place where no
186 obstruction prevents a quick and safe crossing, and if the operator stops the all-terrain
187 vehicle prior to the crossing and yields the right-of-way to other vehicles, pedestrians,
188 and electric personal assistive mobility devices using the roadway.

189 (d) On any roadway which is seasonally not maintained for motor vehicle traffic.
190 Operation of an all-terrain vehicle on this type of roadway is authorized only during the
191 seasons when no maintenance occurs and only if the roadway is not officially closed to
192 all-terrain vehicle traffic.

193 (e) To cross a bridge, culvert or railroad right-of-way. The crossing of a bridge, culvert,
194 or railroad right-of-way is not authorized if the roadway is officially closed to all-terrain
195 vehicle traffic. The crossing is authorized only if the crossing is done in the most direct
196 manner practicable, if the crossing is made at a place where no obstruction prevents a
197 quick and safe crossing, and if the operator stops the all-terrain vehicle prior to crossing
198 and yields to pedestrians, and electric personal assistive mobility devices using the
199 highway.

200 (f) On highways designated as all-terrain vehicle routes. Operation of all-terrain vehicles
201 on a highway which is an all-terrain vehicle route is authorized only for the extreme right
202 side of the highway except that left turns may be made from any part of the highway
203 which is safe given prevailing conditions.

204 (g) On highways if the all-terrain vehicle is an implement of husbandry, if used
205 exclusively for agricultural purposes and if the all-terrain vehicle is registered for private
206 use.

207 | 410.5-5. —*Operation adjacent to highways.* All-terrain vehicles may be operated adjacent to a
208 highway on an all-terrain vehicle route or trail if the all-terrain vehicle is operated in the
209 following manner:

210 (a) At a distance of 10 feet or more from the highway along U.S. numbered highways,
211 state and county highways, Tribal roads, town roads, and BIA roads.

212 (b) Outside of the highways along town highways.

213 (c) During hours of darkness in the same direction as motor vehicle traffic in the nearest
214 lane, although during daylight hours travel may be in either direction regardless of the
215 flow of motor vehicle traffic.

216 (d) Not in excess of the speed limits of the adjacent highway and not to exceed 35 miles
217 per hour.

218 (e) With due regard to safety and in compliance with rules promulgated by the
219 | [TribeNation](#).

220 (f) Not at a rate of speed that is unreasonable or improper under the circumstances.

221 | 410.5-6. —*Equipment requirements.*

222 (a) A person who operates an all-terrain vehicle during hours of darkness or during
223 daylight hours on any highway right-of-way is required to display a lighted headlamp and
224 tail lamp on the all-terrain vehicle.

225 (b) The headlamp on an all-terrain vehicle is required to display a white light of sufficient
226 illuminating power to reveal any person, vehicle or substantial object at a distance of at
227 least 200 feet ahead of the all-terrain vehicle.

228 (c) The tail lamp on an all-terrain vehicle is required to display a red light plainly visible
229 during hours of darkness from a distance of 500 feet to the rear.

230 (d) Every all-terrain vehicle is required to be equipped with at least one brake operated
231 either by hand or by foot.

232 (e) Every all-terrain vehicle is required to be equipped with a functioning muffler to
233 prevent excessive or unusual noise.

234 | 410.5-7. —*Residential Areas.*

235 (a) All-terrain operators in the residential areas:

- 236 (1) Are prohibited from operating all-terrain vehicles from 9pm-6am.
 237 (2) Shall not operate all-terrain vehicles in excess of 15 miles per hour.
 238 (3) Shall not operate all-terrain vehicles on sidewalks or yards, unless the operator
 239 is on his or her own land or leases the land.
 240 (4) Shall use extra caution, including yielding right of way, whenever pedestrians
 241 or other motor vehicle traffic are in the near vicinity.
 242 (5) Shall not cause excessive noise with all-terrain vehicles.
 243 (6) Shall not use the public driveways of Tribal service providers, unless
 244 conducting business.
 245 (7) Shall not use the Tribal residential area as a riding area. In the Tribal
 246 residential area, all-terrain vehicles should only be utilized to get to and from
 247 another area.
 248 (A) Operators shall use the shortest distances when entering and exiting
 249 the Tribal residential area. For example, operators going to a residence
 250 within the Tribal residential area must take the most direct route to the
 251 residence.

252 | 410.5-8. Accidents.

- 253 (a) If an accident results in the death of any person or in the injury of any person which
 254 requires the treatment of the person by a physician, the operator of each all-terrain
 255 vehicle involved in the accident shall give notice of the accident to a conservation warden
 256 or local law enforcement officer as soon as possible and shall file a written report of the
 257 accident within 10 days after the accident to the Oneida Police Department.
 258 (b) If the operator of an all-terrain vehicle is physically incapable of making the report
 259 required by this subsection and there was another witness to the accident capable of
 260 making the report, the witness may make the report.

261 | 410.5-9. Routes and Trails.

- 262 (a) The Tribe-Nation shall encourage and supervise a system of all-terrain vehicle routes
 263 and trails. The Division of Land Management, in cooperation with the Conservation
 264 Department, shall establish standards and procedures for certifying the designation of all-
 265 terrain vehicle routes and trails.
 266 (b) The Tribe-Nation may specify effective periods for the use of all-terrain vehicle routes
 267 and trails and may restrict or prohibit the operation of an all-terrain vehicle during certain
 268 periods of the year.
 269 (c) The Tribe-Nation shall establish uniform all-terrain vehicle route and trail signs and
 270 standards.
 271 (d) Interference with signs and standards are prohibited.
 272 (1) No person may intentionally remove, damage, deface, move or obstruct any
 273 uniform all-terrain vehicle route or trail sign or standard or intentionally interfere
 274 with the effective operation of any uniform all-terrain vehicle route or trail sign or
 275 standards if the sign or standard is legally placed by the Tribe-Nation, the state,
 276 any municipality or any authorized individual.
 277 (2) No person may possess any uniform all-terrain vehicle route or trail sign or
 278 standard of the type established by the Tribe-Nation for the warning, instruction or
 279 information of the public, unless he or she obtained the uniform all-terrain vehicle
 280 route or trail sign or standard in a lawful manner. Possession of a uniform all-
 281 terrain vehicle route or trail sign or standard creates a rebuttable presumption of
 282 illegal possession.

283 (e) Interference with trails prohibited. No person may intentionally obstruct or interfere
284 with an all-terrain vehicle route or trail.

285 **410.6. Enforcement.**

286 ~~410.6-1. Conservation Wardens shall have the authority to enforce this Law and are authorized~~
287 ~~to issue citations for a violation(s) of the All Terrain Vehicle Law to an alleged violator.~~

288 ~~(a) The Conservation Warden shall identify himself/herself and title.~~

289 ~~(b) The Conservation Warden shall give the alleged violator the citation and shall retain~~
290 ~~a copy.~~

291 ~~(c) The citation shall include:~~

292 ~~(1) the violation.~~

293 ~~(2) the penalties and/or fines.~~

294 ~~(3) the date, time, and place of the hearing.~~

295 ~~410.6-2. Environmental Resources Board Hearing. The Board shall hold any and all hearings on~~
296 ~~alleged violations of this Law in accordance with:~~

297 ~~(a) The Administrative Procedures Act; and~~

298 ~~(b) The By Laws of the Board.~~

299

300 **410.76. Sanctions.**

301 ~~410.76-1.~~ The following sanctions may be imposed for violations of the All-Terrain Vehicle
302 Law:

303 (a) All fines and forfeitures shall be paid to the **TribeNation**.

Violation		Sanction
(a) Unlawful rental of all-terrain vehicle	sec. 5-2.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(b) Operating all-terrain vehicle in a careless manner	sec. 5-1(a)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(c) Operating all-terrain vehicle on the private property of another without consent	sec. 5-1(b)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$130.00
(d) Operating all-terrain vehicle on Tribal Lands without consent	sec. 5-1(c)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00 Non-Members will be turned over to Oneida Police Department or County Sheriff's Department
(e) Transporting loaded or uncased firearm or a strung or uncased bow on all-terrain vehicle	sec. 5-1(d)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$500.00
(f) Drive, pursue, take, catch, kill,	sec. 5-1(e)	1 st Violation: \$25.00

hunt, trap or harvest any animal from an all-terrain vehicle		2 nd Violation: \$50.00 3 rd Violation: \$250.00
(g) Operating all-terrain vehicle within 150 feet of a dwelling at a speed exceeding 10 miles per hour without owners consent	sec. 5-1(f)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(h) Operating all-terrain vehicle on frozen surface of public waters within 100 feet of a person or fishing shanty at a speed exceeding 10 miles per hour	sec. 5-1(g)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(i) Operate/ride all-terrain vehicle without protective headgear	sec. 5-3.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(j) Illegal operation of all-terrain vehicles on or in the vicinity of highways	sec. 5-4.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(k) All-terrain equipment violations	sec. 5-7.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(l) Failure to report all-terrain vehicle accident	sec. 5-9.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(m) Interference with all-terrain vehicle route or trail signs and standards	sec. 5-10(d)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$250.00
(o) Operating on a church property, school property, cemetery, burial ground, campground, parks, business, airport or landing facility without permission	sec. 5-1(i)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$200.00
(p) Operating at a speed that is unreasonable or improper	sec. 5-6(f)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(q) Operating all-terrain vehicle in or on project or program assigned lands	sec. 5-1(l)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(r) Operating in excess of 10mph	sec. 5-1(n)	1 st Violation: \$25.00

when traveling within 100 feet of a person not on an all-terrain vehicle, snowmobile or motorcycle		2 nd Violation: \$50.00 3 rd Violation: \$100.00
(s) Owner permitting operation of all-terrain vehicle by person who does meet age requirements	sec. 4-1.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$140.00
(t) Operating an all-terrain vehicle outside or off the designated route or trail	sec. 5-1(o)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(u) Operating an all-terrain vehicle in Tribal Residential Areas	sec.5-8.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(v) Operating on any pathways or sidewalks specified for pedestrian use	sec. 5-1(h)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(w) Operating all-terrain vehicle without eye protection	sec. 5-1(j)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(x) Operating in any streams or creeks	sec. 5-1(k)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(y) Illegally operating on or adjacent to highways	sec. 5-5.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(z) Obstructing trail.	sec. 5-10 (e)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00

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410.7. Violations, Enforcement and Appeals

410.7-1. Citations. Citations for the violation of this law and/or orders issued pursuant to this law may include sanctions, fines, penalties and conditional and other orders in accordance with the schedule developed under section 410.6-1. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(a) Any order issued pursuant to this law that is not complied with may be physically enforced by Oneida Police Officers or Oneida Conservation Wardens at the Owner's expense.

(b) The Oneida Police Department, by means of Oneida Police Officers and Oneida Conservation Wardens, is authorized to take any appropriate action to prevent or remove a violation of this Law.

410.7-2. Hearing and Appeals of Contested Actions. All citations, orders and declarations issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which

318 shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after
319 the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at
320 which time the Judiciary Trial Court shall accept pleas which either contest or admit committing
321 the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously
322 as possible, provided that it shall be scheduled within ninety (90) days of the date of the
323 prehearing, for all persons entering a plea contesting the fact that they committed the act for
324 which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also
325 make conditional orders at the prehearing which are effective until the matter is resolved.

326 (a) *Community Service.* Community service may be substituted for monetary fines at the
327 Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of
328 one (1) hour per ten dollars (\$10) of the fine.

329 (b) *Allocation of Citation Revenue.* All citations shall be paid to the Environmental
330 Resource Board or its designee, the proceeds of which shall be contributed to General
331 Fund.

332 (c) *Appealing the Decision of the Judiciary Trial Court.* Any person wishing to contest
333 the determination of the Judiciary Trial Court may appeal to the Judiciary Court of
334 Appeals in accordance with the Rules of Appellate Procedure.

335 (d) *Pursuing Payment of a Citation.* The Environmental Resource Board may pursue
336 payment from parties who have failed to make the required payments through the
337 garnishment process contained in the Garnishment law and/or by attaching the judgment
338 to Tribal member's per capita payment pursuant to the Per Capita law.

339 ~~410.7.2. All fines assessed under this section shall be paid within sixty days of the judgment of~~
340 ~~the final hearing body hearing and appeal, or otherwise within sixty days of the issuance of the~~
341 ~~citation.~~

342 ~~410.7.3. Community service may be substituted for fines for any of the above violations at the~~
343 ~~discretion of the Board at the rate of one hour per \$10.00 of the fine.~~

344 ~~410.7.4. All persons are encouraged to report violations of these regulations to the Oneida~~
345 ~~Police Department or Oneida Conservation Department. Any information received regarding~~
346 ~~violations shall be kept confidential by both Departments.~~

347
348 *End.*

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352 Emergency Adoption - BC-9-24-03-A
353 Emergency Adoption Extension - BC-3-31-04-C
354 Permanent Adoption - BC-6-16-04-B

FINANCE ADMINISTRATION
Fiscal Impact Statement



MEMORANDUM

DATE: June 7, 2017

FROM: Rae Skenandore, Project Manager

TO: Larry Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer

RE: **Fiscal Impact of the transfer of the Environmental Resource Board's Hearing Authority to the Oneida Judiciary**

I. Estimated Fiscal Impact Summary

Law: Domestic Animal Hunting, Fishing and Trapping law (HTF) Public Use of Tribal Land (Public Use) Tribal Environmental Response (TERP) Well Abandonment Law (Well Abandonment) All-Terrain Vehicle Law (ATV) Water Resources Ordinance (Water Resources) On-Site Waste Disposal Ordinance (Waste Disposal)	Draft 19 Draft 2 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1
Implementing Agency	Oneida Police Department (OPD) Conservation Environmental Resource Board (ERB) Emergency Management Environmental Health and Safety Division Comprehensive Health Division Oneida Judiciary
Estimated time to comply	January 1, 2018
Estimated Impact	Current Fiscal Year 10 Year Estimate
ERB stipend savings	\$830 \$8,300
Total Estimated Savings	\$830 \$8,300
Revenue and cost considerations	Fee Schedules should be removed from the various Laws
Uncertainties and Unknowns	None

II. Background

A. Legislative History

The Oneida Business Committee created the Environmental Resource Board through Resolution BC-02-22-85-B. GTC Resolution 01-07-13-B established the Oneida Judiciary.

B. Summary of Content

1. The Domestic Animal amendments are being processed separately in order to make further revisions. However, it is included here because there are no additional fiscal impacts due to the amendments.
2. All Laws are being amended to state that the Trial Court is the entity authorized to conduct hearings.
3. Other minor changes, including formatting, have been made to these Laws to comply with drafting style. These changes do not affect the content of these Laws.

C. Methodology and Assumptions

1. A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.
2. Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.
3. The analysis was completed based on the information provided as of the date of this memo.

III. Agency

The hearing authority will simply be transferred from ERB to the Judiciary. Historical hearing stipends paid to the Board were \$750 in 2017, \$1,200 in 2016, and \$700 in 2015. Transferring the hearing authority to the Judiciary would result in an average savings of approximately \$830 annually. The Judiciary does not anticipate any additional costs as this will simply be absorbed into their existing duties. ERB has stated that they expect the transition of the hearing authority to be complete by January 1, 2018

IV. Financial Impact

Approximately \$830 savings annually.

V. Recommendation

Finance does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Consider adoption of amendments to the Hunting, Fishing, Trapping law.

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="Adoption packet"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jennifer Falck, LRO Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



TO: Oneida Business Committee
 FROM: Brandon Stevens, LOC Chairperson *BS*
 DATE: July 26, 2017
 RE: Hunting, Fishing and Trapping Law Amendments

Please find the following attached backup documentation for your consideration of the Hunting, Fishing and Trapping Law Amendments:

1. Resolution: Hunting, Fishing and Trapping Law Amendments
2. Statement of Effect: Hunting, Fishing and Trapping Law Amendments
3. Hunting, Fishing and Trapping Law Amendments: Legislative Analysis
4. Hunting, Fishing and Trapping Law Amendments: Clean Draft
5. Hunting, Fishing and Trapping Law Amendments: Redline to Current Draft
6. Hunting, Fishing and Trapping Law Amendments: Fiscal Impact Statement

Overview

This resolution adopts amendments to the Hunting, Fishing and Trapping Law to:

- Transfer the Environmental Resource Board's hearing authority to the Judiciary;
- Clarify provisions of jurisdiction section;
- Clarify that non-member Indians and non-Indians that hunt, fish, and trap on the Reservation may be subject to State requirements as well as the requirements set forth in the Hunting, Fishing, and Trapping law; and
- Clarify that license and permit holders may not exercise any hunting, fishing, or trapping privileges within the Reservation boundaries using a State of Wisconsin license that would amount to greater privileges than those afford pursuant to this Law and associated rules.

In accordance with the Legislative Procedures Act, a public meeting was held regarding this law on June 15, 2017 with a comment period closing on June 29, 2017. There were no comments provided. These amendments will become effective beginning in the new fiscal year on October 1, 2017.

Requested Action

Approve the Resolution: Hunting, Fishing and Trapping Law Amendments

BC Resolution _____*Hunting, Fishing and Trapping Law Amendments*

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WHEREAS, the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, the Oneida Business Committee originally adopted the Hunting, Fishing and Trapping Law through resolution BC-08-31-94-C and thereafter amended it through resolutions BC-04-24-96-A, BC-07-22-98-A, BC-09-13-00-D, BC-06-04-03-A, BC-06-30-04-I, BC-07-13-05-E, BC-08-29-07-F, BC-06-24-09-E, BC-08-26-10-I, BC-12-14-11-E, BC-05-22-13-A and BC-01-25-17-D; and

WHEREAS, the Amendments transfer the Environmental Resource Board's original hearing body authority to the Oneida Judiciary and clarify the Law's jurisdiction section; and

WHEREAS, a public meeting on the proposed Amendments was held on June 15, 2016 in accordance with the Legislative Procedures Act; and

NOW THEREFORE BE IT RESOLVED, that the Hunting, Fishing and Trapping Law Amendments are hereby adopted and shall become effective on October 1, 2017.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



Statement of Effect

Hunting, Fishing and Trapping Law Amendments

Summary

This Resolution adopts Amendments to the Hunting, Fishing and Trapping Law Amendments (the “Law”) which transfer the Environmental Resource Board’s original hearing body authority to the Oneida Judiciary and clarify the jurisdiction section of the Law.

Submitted by: Krystal L. John, Staff Attorney, Oneida Law Office

Analysis by the Legislative Reference Office

As stated above, these amendments will transfer the delegation of original hearing body authority from the Environmental Resource Board to the Oneida Judiciary. Such a transfer would implicate the Judiciary law and the Environmental Resource Board’s by-laws.

The transfer of hearing body authority would fit into the Oneida Judiciary’s subject matter jurisdiction according to the Judiciary law based on section 801.5-2, which provides that, “The Trial Court shall have subject matter jurisdiction over cases and controversies arising under the following... (a) Tribal laws which specifically authorize the Trial Court to exercise jurisdiction...” *Judiciary*, 8 O.C. 801 § 801.5-2. These amendments to the Law specifically authorize the Trial Court to exercise jurisdiction based on section 406.10-5. *Contested Action Hearings*, which reads as follows:

All citations, penalties, orders and declarations issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all persons entering a plea contesting the fact that they committed the act for which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also make conditional orders at the prehearing which are effective until the matter is resolved. ...

(c) Appealing the Decision of the Judiciary Trial Court. Any person wishing to contest the determination of the Judiciary Trial Court may appeal to the Judiciary Court of Appeals in accordance with the Rules of Appellate Procedure. ...

The Environmental Resource Board’s by-laws provide the Board’s duties and responsibilities, among other things. Adoption of this law conflicts with the Board’s by-laws and the by-laws recognize the Environmental Resource Board’s original hearing body authority in section 1-4.b., which reads as follows: “The ERB shall serve as the original hearing body in matters concerning environmental and conservation laws and ordinances promulgated by the Oneida Tribe.” Accordingly, if this resolution is adopted, the Environmental Resource Board’s by-laws would need

to be amended to remove the original hearing body authority from the Board's duties and responsibilities.

In addition to addressing the transfer of hearing body authority, these amendments also clarify the jurisdiction section. These jurisdictional revisions do not implicate any existing laws, policies or rules of the Nation.

A public meeting was held for these Amendments on June 15, 2017 for which the public comment period expired on June 22, 2017 in accordance with the Legislative Procedures Act. There were not any oral or written comments submitted.

Conclusion

Adoption of this Resolution would require the Environmental Resource Board's by-laws to be amended to remove the original hearing body authority from the Board's duties and responsibilities.



Hearing Authority Transfer Legislative Analysis

SECTION 1. BACKGROUND

REQUESTER: LOC	SPONSOR: Tehassi Hill	DRAFTER: Krystal L. John	ANALYST: Candice E. Skenandore
Intent of the Amendments	To further utilize the Judiciary.		
Purpose	To transfer the Environmental Resource Board (ERB) hearing authority to the Judiciary.		
Affected Entities	Trial Court, ERB		
Affected Legislation	Hunting, Fishing and Trapping law, Public Use of Tribal Land, Tribal Environmental Response, Well Abandonment Law, All-Terrain Vehicle Law, Water Resources Ordinance		
Enforcement/Due Process	ERB will no longer hold hearings; hearing will now be conducted by the Trial Court in accordance with the Rules of Civil Procedure.		
Public Meeting	A public meeting was held on June 15, 2017.		

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A.** Since 1985, ERB served as the hearing body authority over the Nation's environmental regulations.
- 3 On May 2, 1990, the Oneida Business Committee established the Oneida Tribal Judicial System (aka
- 4 Oneida Appeals Commission) and General Tribal Council reauthorized the Oneida Tribal Judicial
- 5 System on August 19, 1991 [*See BC Resolution 05-02-90 and GTC Resolution 8-19-91-A*]. The
- 6 purpose of the Oneida Appeals Commission was to enhance and protect self-governance and
- 7 sovereignty as well as enhance the separation of powers between the legislative, executive and
- 8 juridical responsibilities of the Nation. The Oneida Appeals Commission removed the Oneida
- 9 Business Committee from initial judicial decisions [*See GTC Resolution 8-19-91-A*].
- 10 **B.** In 2013, the General Tribal Council changed the structure of the Oneida Tribal Judicial System by
- 11 creating an Oneida Judiciary comprised of the Tribal Court and a Court of Appeals through the
- 12 adoption of the Judiciary law. The purpose of the Judiciary is to grant the Trial Court and Court of
- 13 Appeals expanded subject matter jurisdiction and create a greater role for the use of mediation and/or
- 14 peacemaking [*See GTC Resolution 01-07-13-B*].
- 15 **C.** These proposed amendments will transfer hearing authority from ERB to the Trial Court. The
- 16 following laws are amended to reflect the transfer of hearing authority:
- 17 ▪ Hunting, Fishing and Trapping law (HTF)
 - 18 ▪ Public Use of Tribal Land (Public Use)
 - 19 ▪ Tribal Environmental Response (TERP)
 - 20 ▪ Well Abandonment Law (Well Abandonment)
 - 21 ▪ All-Terrain Vehicle Law (ATV)
 - 22 ▪ Water Resources Ordinance (Water Resources)
 - 23 ▪ On-Site Waste Disposal Ordinance (Waste Disposal)
- 24

SECTION 3. CONSULTATION

25

26 A. ERB and the Trial Court have been consulted in the development of this legislative analysis.
27

28 **SECTION 4. PROCESS**

29 A. These Laws have followed the process set forth in the Legislative Procedures Act (LPA) except that
30 the public meeting was not properly noticed to all managers or directors. The LPA requires the public
31 meeting notice, legislation, legislative analysis and fiscal impact statement, if fiscal impact statement is
32 available, to be electronically provided to all managers or directors a minimum of ten business days
33 before a public meeting is held [*See Legislative Procedures Act, 1 O.C. 109.8-2 (b)*]. The notice and
34 backup documents were provided electronically to all managers or directors on Tuesday, June 13, 2017;
35 the public meeting was held Thursday, June 15, 2017. The public meeting was properly noticed in the
36 Kalihwisaks and was made public on the Oneida Register at least ten business days prior to the public
37 meeting as required by the LPA [*See Legislative Procedures Act, 1 O.C. 8-2 (a & b)*]. The LOC
38 extended the public comment period for these laws for an additional five business days, ending on
39 Thursday, June 29, 2017.

40 B. A work meeting with ERB was held on Wednesday, May 17, 2017 and a work meeting with ERB and
41 the Judiciary was held on Monday, June 12, 2017.
42

43 **SECTION 5. CONTENTS OF THE LEGISLATION**

44 A. The identified laws in Section 2.C of this analysis have been amended to state that the Trial Court is
45 the entity authorized to conduct hearings.
46

47 **SECTION 6. INTENT**

48 A. The intent of these amendments is to further utilize the Oneida Judiciary. The LOC has already
49 decided to transfer hearing authority from identified entities to the Judiciary. The majority of the
50 Oneida Land Commission's and some of the Trust Enrollments Committee's hearing authority has
51 already transferred to the Judiciary. Because the LOC is currently working on amendments the
52 Domestic Animals law in which ERB has hearing authority, it was decided to amend all laws which
53 grant ERB hearing authority and transfer that authority to the Judiciary.
54

55 **SECTION 7. EFFECT ON EXISTING LEGISLATION**

56 A. These amendments do not conflict with other laws or policies of the Nation.
57

58 **SECTION 8. OTHER CONSIDERATIONS**

59 A. The following table shows the type and approximate number of hearings ERB has held since 2012.
60 Included are hearings that pertain to Domestic Animals violations; however, the Domestic Animal
61 amendments are being processed separately in order to make further revisions. In total, ERB has held
62 approximately 69 hearings since 2012.
63

64

	ATV	HFT	Waste Disposal	Public Use	TERP	Water Resources	Well Abandonment	Domestic Animal	TOTAL
2012	0	1	0	0	0	0	0	1	2
2013	0	5	0	0	0	0	0	0	5
2014	0	14	0	0	0	0	0	3	17
2015	0	0	0	1	0	0	0	6	7
2016	0	11	0	2	0	0	0	19	32
2017	0	2	0	0	0	0	0	4	6
TOTAL	0	33	0	3	0	0	0	33	69

65 **B.** Minor changes, including formatting, have been made to these laws to comply with drafting style.

66 These changes do not affect the content of these laws.

67 **C.** Please refer to the fiscal impact statement for any financial impacts.

68

69 SECTION 9. ADDITIONAL AMENDMENTS

70 **A. *Hunting, Fishing, and Trapping law (Law)*.** In additions to the amendments which transfer ERB's
 71 hearing authority to the Judiciary, additional amendments were made to the Hunting, Fishing, and
 72 Trapping law. These amendments include revising section 406.4-3 which states that this Law does
 73 not negate the jurisdiction of the State of Wisconsin in instances that involve non-member Indians
 74 and non-Indians. This means that non-member Indians and non-Indians hunting, fishing and trapping
 75 on land owned by the Nation must adhere to the Nation's license, permit and tag requirements but
 76 may also be subject to State requirements. In addition, license and permit holders cannot utilize
 77 hunting, fishing, or trapping privileges within the Reservation using a State license that would
 78 provide greater privileges than those afforded in this Law and any applicable rules [*See Hunting,*
 79 *Fishing and Trapping, 4 O.C. 406.4-3*].

80

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Title 4. Environment and Natural Resources – Chapter 406
HUNTING, FISHING AND TRAPPING
Lutol@tha>, Latsyw@aha> O>kh@le Atlist@y< Tsi> Kayanl^hsla
Our laws concerning hunting, fishing and trapping

406.1.	Purpose and Policy	406.6.	Licenses and Permits
406.2.	Adoption, Amendment, Repeal	406.7.	General Regulations
406.3.	Definitions	406.8.	Wildlife Damage and Nuisance Control
406.4.	Jurisdiction	406.9.	Hunting
406.5.	Administration and Supervision	406.10.	Enforcement and Penalties

406.1. Purpose and Policy

406.1-1. *Purpose.* The purpose of this law is to protect and conserve wildlife on the reservation and to promote respect among sportsmen, respect both the environment and fellow sportsmen.

406.1-2. *Policy.* It is the policy of this law to provide:

- (a) An adequate and flexible system for the protection, management, supervision, conservation, and enhancement of all wildlife and natural resources on the reservation; and
- (b) An enforceable system of licensing and permitting which establishes clear rules pursuant to the Administrative Rulemaking law related to hunting, fishing and trapping, and associated fines and penalties for violations of this law and the said rules.

406.2. Adoption, Amendment, Repeal

406.2-1. This law was adopted by the Oneida Business Committee by resolution BC-8-31-94-C, and amended by resolutions BC-4-24-96-A, BC-7-22-98-A, BC-09-13-00-D, BC-6-04-03-A, BC- 6-30-04-I, BC-7-13-05-E, BC-8-29-07-F, BC-06-24-09-E, BC-08-26-10-I, BC-12-14-11-E, BC-05-22-13-A and BC-01-25-17-D.

406.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

406.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

406.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

406.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

406.3. Definitions

406.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) “Aircraft” means a conveyance that can travel through the air and that is supported either by its own lightness or by the action of the air against its surfaces. The term includes hovercraft and both manned aircraft such as airplanes and helicopters and unmanned aircraft such as drones.
- (b) “Barrel Length” means the length of a gun’s barrel as measured from the muzzle to the firing pin with the action closed, or from the muzzle to the breech face.
- (c) “ERB” means the Environmental Resources Board.
- (d) “Daily Bag Limit” means the maximum number of a species of wildlife that a person may take during a twenty-four (24) hour period measured from midnight to

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- 39 midnight.
- 40 (e) “Department” means the Oneida Conservation Department.
- 41 (f) “Dependent” means a person under the age of eighteen (18) who is the child or
42 step-child of a Tribal member or who lives with a Tribal member for more than half of
43 the year.
- 44 (g) “Designated Hunter” means the person named by a permittee as authorized to
45 harvest wildlife on behalf of the permittee pursuant to the permit held by the permittee.
- 46 (h) “Elder” means any person fifty-five (55) years of age or older.
- 47 (i) “Endangered or Threatened” means any species of wildlife within the reservation in
48 danger of extinction or likely to become in danger of distinction as recognized by ERB
49 and the Department and under federal law.
- 50 (j) “Fine” means a monetary punishment issued to a person violating this law and/or
51 the rules created pursuant to this law, which is payable to ERB or the Department within
52 the amount of time designated by the rules.
- 53 (k) “Fishing” means the taking, capturing, harvesting or attempting to take, capture or
54 harvest fish of any variety in any manner.
- 55 (l) “Hunt” or “Hunting” means shooting, shooting at, pursuing, taking, attempting to
56 take, catch, harvest or attempting to harvest any wildlife.
- 57 (m) “License” means a written document issued by the Department granting authority to
58 engage in specific activities covered under this law and the rules created pursuant to this
59 law.
- 60 (n) “Loaded” means any firearm containing a cartridge in the chamber or any firearm
61 containing a cartridge or cartridges in the attached cylinder, magazine or clip.
- 62 (1) Muzzleloading firearms may not be considered loaded if a percussion cap is
63 not covering the percussion nipple or .209 primers are not in the receiver.
- 64 (2) Flint lock muzzleloading firearms may not be considered loaded if the flash
65 pan is cleaned of powder.
- 66 (o) “Nation” means the Oneida Nation.
- 67 (p) “Non-Indian” means a person who is not a member of any federally recognized
68 Indian tribe, band, or community.
- 69 (q) “Non-Member Indian” means a person who is a member of a federally recognized
70 Indian tribe, band or community other than this Nation.
- 71 (r) “Nuisance Animal” means any wildlife causing and one (1) or combination of the
72 following:
- 73 (1) Damage to property;
- 74 (2) Damage to or endangered or threatened species of wildlife and/or plants;
- 75 (3) Depredation of crops and/or livestock; or
- 76 (4) Health and/or safety risks posed to persons.
- 77 (s) “Penalty” means a punishment, other than a fine, imposed on a person violating this
78 law and/or the rules created pursuant to this law and may include, but is not limited to,
79 the confiscation of equipment and/or wildlife with return of the same at the discretion of
80 ERB, the imposition of a wildlife protection assessment (civil recovery value), revocation
81 and/or ineligibility for licenses and/or permits for a specified period of time, and
82 restitution.
- 83 (t) “Permit” means a document, stamp or tag authorizing a specific activity which is
84 issued by the Department to the holder of a license.
- 85 (u) “Protected Species” means any species of wildlife that is not endangered or

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86 threatened, but for which ERB has established seasons, daily bag limits, or otherwise
87 restricted the taking of.

88 (v) “Reservation” means all the property within the exterior boundaries of the
89 reservation of the Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat.
90 566, and any lands added thereto pursuant to federal law.

91 (w) “Rule” means a set of requirements, including citation fees and penalty schedules,
92 enacted by ERB and/or the Department in accordance with the Administrative
93 Rulemaking law based on authority delegated in this law in order to implement, interpret
94 and/or enforce this law.

95 (x) “Take” or “Taking” means pursuing, shooting, hunting, fishing, netting (including
96 placing or setting any net or other capturing device), capturing, harvesting, snaring or
97 trapping any wildlife, or attempting any of the foregoing.

98 (y) “Transport” means to bring or move from one place to another by means of
99 carrying, dragging, pushing, towing, or storing in or on a vehicle, aircraft or boat.

100 (z) “Trapping” means the taking of, or attempting to take, any wildlife by means of
101 setting or operating any device or mechanism that is designed, built, or made to close
102 upon, hold fast, snare or otherwise capture wildlife.

103 (aa) “Tribal Land” means any land within the reservation that is held in fee or in trust
104 and is owned by the Nation, a Tribal member, or a non-member Indian.

105 (bb) “Tribal Member” means an enrolled member of the Nation.

106 (cc) “Vehicle” means any self-propelled conveyance that derives power from a motor
107 and is used to transport persons or objects over land, including but not limited to, an
108 automobile, truck, sport utility vehicle, snowmobile, motorcycle, all-terrain vehicle,
109 moped or similar conveyance.

110 (dd) “Wildlife” means any non-domesticated mammal, bird, fish, reptile, or amphibian,
111 or any part or carcass of the same.¹

112

113 **406.4. Jurisdiction**

114 406.4-1. This law applies to the following persons:

115 (a) All Tribal members,

116 (b) All non-member Indians,

117 (c) All non-Indians who:

118 (1) apply for and receive a license and/or permit, and/or

119 (2) enter Tribal land,

120 (d) All persons as otherwise permitted under federal law.

121 406.4-2. This law applies:

122 (a) within the boundaries of the reservation, and

123 (b) on lands held in trust for the Nation outside the boundaries of the reservation.

124 406.4-3. *Jurisdiction.* The Nation has jurisdiction over the management and regulation of the
125 Nation’s natural resources. However this law shall not negate the jurisdiction of the State of
126 Wisconsin in certain instances involving non-member Indians and non-Indians. Thus, to hunt,
127 fish, or trap on tribal land, non-member Indians and non-Indians shall adhere to the Nation’s

¹ For additional information, please reference the definition of “domestic animal” in the Nation’s Domestic Animal law; any animal that does not fall into the “domestic animal” classification is considered “wildlife” for the purpose of this law.

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128 license, permit, and tag requirements and may also be subject to the requirements of the State of
129 Wisconsin. License and permit holders may not exercise any hunting, fishing, or tapping
130 privileges within the Reservation boundaries using a State of Wisconsin license that would
131 amount to greater privileges than those afford pursuant to this Law and associated rules.
132

133 **406.5. Administration and Supervision**

134 406.5-1. ERB and the Department, shall protect, manage, supervise, conserve, and enhance all
135 wildlife within the reservation. ERB and the Department shall jointly establish and maintain the
136 rules that are required to implement this law. The Department shall administer and enforce this
137 law and the rules created pursuant to this law.

138 406.5-2. *Authority.* In addition to any other duties delegated to ERB and the Department under
139 this law, jointly, ERB and the Department are hereby jointly delegated the rulemaking authority
140 to:

141 (a) Determine the types and number of licenses and permits that may be issued by the
142 Department, including how many licenses and permits that may be issued to non-Indian
143 hunters.

144 (b) Establish a fee schedule and application requirements and deadlines for obtaining
145 licenses and/or permits.

146 (c) Establish or amend daily bag limits and possession limits based on the supply of
147 wildlife, the needs of conservation, and the objective of achieving a fair allocation of the
148 harvest. Restrictions in such rules may include, but are not limited to, limits related to
149 gender, species, size, age, and maturity.

150 (d) Based on the monitoring and supervision of all wildlife, when necessary, declare any
151 species in need of protection a protected species or an endangered or threatened species,
152 and thereafter modify or revoke such declarations as may be appropriate.

153 (e) Fix, shorten, extend or close seasons and hunting hours on any wildlife. Provided that
154 ERB and the Department shall base the open season for the hunting of migratory birds on
155 the Nation's agreement with the U.S. Fish and Wildlife Service.

156 (f) Establish and/or modify areas' territorial limits, including bodies of water or parts
157 thereof, for any of the following, as may be necessary:

158 (1) the taking of wildlife;

159 (2) other specified areas, pursuant to the rules jointly developed by ERB and the
160 Department.

161 (g) Establish methods for checking persons into and out of areas specified under
162 subsection (f) above.

163 (h) Regulate the operation of boats upon reservation waters and the operation of vehicles
164 and aircraft used while hunting, fishing or trapping.

165 (i) Regulate and prescribe the means and methods by which wildlife may be taken,
166 including, but not limited to, the use of:

167 (1) bait,;

168 (2) decoys;

169 (3) hunting dogs

170 (4) traps;

171 (5) firearms;

172 (6) ammunition;

173 (7) laser sights; and

174 (8) night vision.

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175 (j) Regulate the transportation, registration, tagging, and storage of all wildlife within the
176 reservation and the shipment or transportation of wildlife off the reservation.

177 (k) Prescribe safety and fire control measures and other rules as may be necessary for
178 range, forest or wildlife management, and/or for the safety and welfare of outdoor
179 recreationists, landowners, lessees, occupants and the Nation.

180 (l) Establish a process for retention, storage and disposal of items confiscated or turned
181 over to the Department in accordance with this law and the rules established pursuant to
182 this law.

183 (m) Establish a citation schedule that sets the monetary fines and penalties for violations
184 of this law and/or the rules established pursuant to this law.

185 (n) Create other rules as specifically directed throughout this law or as may be necessary
186 to implement this law. ERB shall provide notice of said rules on the Nation's website
187 and ERB and/or the Department shall develop a rule booklet, which the Department shall
188 provide to each person receiving a license or permit pursuant to this law.

189 406.5-3. *Department Wardens.* Department wardens shall enforce this law and corresponding
190 rules on the reservation, and, accordingly shall:

191 (a) Observe persons engaged in hunting, fishing and/or trapping in order to ensure that
192 the methods and equipment utilized are lawful.

193 (b) Investigate reports of violations of wildlife and environmental laws, including, but
194 not limited to, this law and corresponding rules.

195 (c) Work to prevent persons from violating this law and/or the corresponding rules.

196 (d) Issue warnings and/or citations, which may include fines and/or penalties, for
197 violations of this law and/or the corresponding rules.

198 406.5-4. *Oneida Police Department.* Any Oneida Police Department officer, who observes a
199 violation of this law and/or corresponding rules, shall report such violation to the Department
200 and/or a Department warden. However, if immediate action is necessary to prevent imminent
201 danger to life or serious damage to property, the Oneida Police Department officer may issue a
202 warning or citation for the said violation(s) and/or prevent persons from committing the said
203 violation(s).

204

205 **406.6. Licenses and Permits**

206 406.6-1. *Sportsman License.*

207 (a) A sportsman license is required for all persons hunting, fishing or trapping on Tribal
208 land, except:

209 (1) Fishing is permitted without a sportsman license for Tribal members,
210 dependents, and non-member Indians whom are sixteen (16) years of age or
211 younger.

212 (2) Landowners and lessees and guests with the permission of the landowners or
213 lessees, may hunt and trap the following species on the property they own or
214 lease, year-round, without a sportsman license:

215 (A) coyote;

216 (B) fox;

217 (C) raccoon;

218 (D) woodchuck;

219 (E) rabbit;

220 (F) squirrel; and

221 (G) any nuisance animal that is not an endangered or threaten species and

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- 222 is also not a regulated or protected species.
- 223 (b) Anyone born on or after January 1, 1973 shall successfully complete a state-certified
224 hunter safety course to be eligible for a sportsman license, except that:
- 225 (1) *Fishing Only Sportsman License*. A sportsman license may be issued which
226 permits fishing only. In such circumstances, successful completion of a state-
227 certified hunter safety course is not required and the Department shall internally
228 record such licenses as permitting fishing only.
- 229 (A) A person issued a “fishing only” sportsman license may not hunt or
230 trap, or be eligible to hunt or trap, until the licensee provides the
231 Department with proof of successful completion of a state-certified hunter
232 safety course.
- 233 (B) Any licensee holding a fishing only sportsman license may name a
234 designated hunter to fill the hunting or trapping permits that regularly
235 accompany a sportsman license based on the rules established pursuant to
236 this Law. For the requirements related to naming a designated hunter,
237 refer to section 406.9-4.
- 238 406.6-2. *Ceremonial and/or Feast Permit*. Tribal members may apply for a ceremonial and/or
239 feast permit to group hunt wildlife outside of the regular applicable seasons.
- 240 (a) When the ceremonial and/or feast permit is for deer hunting, it may only be issued for
241 antlerless deer.
- 242 (b) A ceremonial and/or feast permit may be issued to a group and/or organization
243 meeting each of the following requirements:
- 244 (1) At least eighty-five percent (85%) of the group and/or organization members
245 are Tribal members;
- 246 (2) The agent of the group/organization is a Tribal member;
- 247 (3) The occasion for the ceremonial and/or feast requiring the hunt out of season
248 is recognized by the Oneida community; and
- 249 (4) The hunt takes place on the reservation.
- 250 (c) All persons participating in the ceremonial and/or feast hunt shall be named hunters
251 on the ceremonial and/or feast permit.
- 252 (d) The agent of the group ceremonial and/or feast hunt shall notify the Department
253 warden of the time and place where the hunt will take place no later than twenty-four (24)
254 hours prior to the hunt. The Department warden may monitor any portion, or the entirety,
255 of the group ceremonial and/or feast hunt.
- 256 406.6-3. *Other Permits, Tags and Stamps*. In accordance with this law and corresponding rules,
257 the Department may issue permits authorizing a person to engage in specific hunting, fishing
258 and/or trapping activities, including nuisance animal removal permits pursuant to section 406.8-
259 2.
- 260 406.6-4. It is unlawful for any person to:
- 261 (a) Provide false information or fail to report relevant information as requested by the
262 Department, when applying for a license or permit; or
- 263 (b) Aid another in fraudulently securing a license or permit.
- 264 406.6-5. Except as provided under sections 406.6-1(b)(1)(A), 406.9-4 and 406.9-6, licenses
265 and/or permits are not transferable and may not be altered, defaced or lent to or from another
266 person, any may not be used by any person other than the person to whom the license and/or
267 permit is issued.
- 268 406.6-6. *Disabled Hunter Permits*. The Department may issue a disabled hunter permit to any

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269 person who is physically disabled, upon a showing of medical verification of a physical
270 disability. Disabled hunters shall display the disabled hunter permit sticker in a manner and
271 location as required by the Department. A disabled hunter permit authorizes a person to hunt
272 from a stationary vehicle within fifty (50) feet on the center of a road as further detailed in the
273 rules developed pursuant to this law.

274 406.6-7. *Denial of a License or Permit.*

275 (a) The Department may decline to issue a license and/or permit to an applicant if:

276 (1) The applicant has unpaid fines, civil assessments, other fees and/or restitution
277 owed because of a violation of this law and/or corresponding rules.

278 (2) At any time and for any reason, the Department determines that issuing the
279 license and/or permit poses a risk to the health, safety, and/or welfare of the
280 Nation, to natural resources on the reservation, or to any persons. There is a
281 rebuttable presumption that an applicant poses such a risk under the following
282 circumstances:

283 (A) At the time of the request, the applicant's hunting, fishing or trapping
284 license, permit or related privileges are suspended or revoked in any
285 jurisdiction.

286 (B) Within three (3) years of the request, the applicant has repeatedly
287 and/or egregiously done any one (1) or more of the following:

288 (i) violated this law and/or corresponding rules and/or the
289 hunting, fishing, or trapping laws and regulations of other
290 jurisdictions;

291 (ii) violated other laws or rules of the Nation while engaged in
292 hunting, fishing or trapping activities; or

293 (iii) demonstrated poor judgment, disregard for safety or
294 unsportsmanlike behavior while hunting, fishing or trapping;
295 including while interacting with other sportsmen or with wardens,
296 of this jurisdiction or any other.

297 (C) At any time, the applicant has been found guilty of imposing or
298 threatening to impose great bodily harm on another. For the purposes of
299 this section, great bodily harm means bodily injury which creates a
300 substantial risk of death, or which causes serious permanent
301 disfigurement, or which causes a permanent or protracted loss or
302 impairment of the function of any bodily member or organ or other serious
303 bodily injury.

304 (b) Any person who has had a license or permit denied in accordance with section 406.6-
305 7(a) may appeal the Department's decision by requesting a hearing before ERB pursuant
306 to section 406.10-4.

307

308 **406.7. General Requirements**

309 406.7-1. Persons may not:

310 (a) Enter onto private lands and/or waters to take or retrieve wildlife, without permission
311 from the landowner, lessee or occupant.

312 (b) Leave, deposit, place or throw litter, debris, wildlife, or any other waste material, on
313 the reservation's lands and waters.

314 (c) Cause damage to land or property belonging to another, including but not limited to,
315 the Department's decoys placed for law enforcement purposes by Department wardens or

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316 other law enforcement officers, and signs that give notice of a hunting and/or trespass
317 restriction.

318 (d) Carelessly waste wildlife. Persons hunting, trapping or fishing shall make every
319 reasonable effort to retrieve all wildlife killed or crippled, provided that all persons shall
320 comply with section 406.7-1(a).

321 (e) Knowingly disturb any den, nest, lodge, hut, dam or house that wildlife may build to
322 shelter themselves and their young.

323 (f) No person may take, pursue, injure, or harass small game while on or in its nest or
324 den, or remove any eggs or young except as may be approved in advance by the
325 Environmental Resource Board for activities which may include, but are not limited to,
326 normal agricultural or horticultural practices or wildlife research practices.

327 (g) Harvest wildlife with the aid of an explosive, poison, exploding point or tip, electrical
328 device or stupefying substance or agent.

329 (h) Take another person's wildlife or disturb another person's hunting, fishing, or
330 trapping equipment without permission; or otherwise interfere with the lawful hunting,
331 fishing, or trapping of another person.

332 (i) Stock or possess any live wildlife on the reservation without a permit.

333 (j) Introduce or release wildlife, fish eggs, or receptacles containing bait, on the
334 reservation or into reservation waters without a permit.

335 (k) Use in a reckless manner any device typically used for the harvesting of wildlife,
336 including but not limited to, firearms, bows, traps and knives.

337 (l) Shoot firearms, or place or operate any traps, except live traps, within one hundred
338 (100) yards of any building structure, unless the owner-occupant, lessee or tenant has
339 given permission.

340 (m) Use a gas powered motorboat on the Nation's waters, except for the Department's use
341 for law enforcement and conservation purposes.

342 (n) Hunt, trap, or possess any hunting, or trapping equipment while on Tribal land where
343 hunting or trapping is expressly prohibited by the Nation's laws or rules.

344 (o) Sell or purchase wildlife that was harvested on the reservation, except as may be
345 expressly allowed by this law and corresponding rules.

346 (1) Under no circumstances may trading, gifting, or sharing of wildlife for
347 traditional or ceremonial purposes be considered a violation of this section.

348 (p) Refuse to obey a Department warden's lawful order.

349 (q) Inflict or threaten to inflict bodily harm upon a Department warden. For the purposes
350 of this law, "bodily harm" means physical pain or injury or any impairment of the
351 physical condition.

352 406.7-2. *Possession, Registration and Transportation of Carcasses.* No person may hunt, trap,
353 possess or transport any wildlife unless he or she possesses the appropriate license and any
354 required permit, including tags, for harvesting and/or possessing such wildlife.

355 406.7-3. Any person who accidentally collides with and kills a deer while operating a vehicle
356 on a roadway, may retain possession of the said deer, provided that the person shall have the deer
357 tagged by the Department or the Department's designee.

358 406.7-4. *Carcass Tags.* Except as otherwise provided in this law and corresponding rules, any
359 person hunting a species of wildlife which is required to be tagged, shall possess a valid carcass
360 tag, and, upon harvest, shall immediately validate and attach the tag to the carcass in such
361 manner as ERB and the Department shall jointly establish in its the rules. No person may
362 possess or transport harvested wildlife that is not properly tagged in accordance with this law and

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363 corresponding rules.

364 406.7-5. *Health Advisory*. ERB and the Department shall ensure that all hunting and fishing
365 rule booklets contain a warning stating that fish caught in Duck Creek, as well as ducks, geese
366 and other wildlife may contain Polychlorinated Biphenyl (PCBs) which may pose risks of health
367 defects, that such risks are greatest for women and children, and that detailed information about
368 PCBs is available from the Department upon request.

369

370 **406.8. Wildlife Damage and Nuisance Control**

371 406.8-1. Landowners and lessees may remove wildlife considered a nuisance animal from land
372 under their control and their associated structures, provided that landowners and lessees shall
373 satisfy all requirements of this law and corresponding rules , including, but not limited to the
374 permitted methods of taking and hunting hours. Further, live-captured nuisance animals may not
375 be relocated to Tribal lands without express written authorization from the Department, and,
376 similarly, may not be relocated to private property without express written authorization from the
377 landowner.

378 406.8-2. *Nuisance Animal Removal Permit*. A nuisance animal removal permit is required to
379 hunt, trap, or live-capture and relocate any endangered or threatened and protected species.

380 (a) In order to be eligible for a nuisance animal removal permit, the applicant shall
381 demonstrate that:

382 (1) He or she has the authority to control hunting and trapping access to the lands
383 subject to the nuisance or being damaged as well as any contiguous lands. In
384 circumstances where the contiguous lands are not owned or leased by the
385 applicant, the applicant shall demonstrate authority to control hunting and
386 trapping access to the contiguous lands by providing the Department with the
387 property owner's or lessor's written consent;

388 (2) He or she either is employing or agrees to employ, reasonable alternative
389 abatement methods to removal;

390 (3) The wildlife sought to be removed is a nuisance animal and reasonable
391 alternative abatement methods either have been or are reasonably likely to be
392 unsuccessful;

393 (4) He or she has complied with this law and corresponding rules and the
394 conditions of any previously-issued nuisance animal removal permit, at a
395 minimum, for the previous twelve (12) months from the date he or she applies for
396 the permit;

397 (5) The nuisance animal removal permit applied for does not conflict with any
398 provisions of the Nation's agreement with the United States Fish and Wildlife
399 Service regarding the taking of birds classified as migratory under 50 CFR 10.13.

400 (b) Each permittee shall keep a record of all permit activities and shall provide the said
401 permit record to the Department within ten (10) days of the permit's expiration. At a
402 minimum, the permittee shall include in the record any agents assigned under section
403 406.8-4 and the total number of nuisance animals removed pursuant to the permit,
404 provided that, the Department may name additional items required to be included in the
405 record. All permit records may be inspected by the Department at any time.

406 (c) The permittee shall return all unused permits, including carcass tags, to the
407 Department within ten (10) days of the permit's expiration.

408 406.8-3. *Nuisance Animal Removal Permit Not Required*. A nuisance animal removal permit is
409 not required if the nuisance animal would otherwise be exempt from the license and permit

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410 requirements under section 406.6-1(a)(2). Also, a nuisance animal removal permit is specifically
411 not required in following circumstances:

412 (a) *Beaver*. A nuisance animal removal permit is not needed for a landowner, lessee, or
413 an authorized agent to hunt or trap beaver(s) that are nuisance animals, or to remove a
414 beaver dam. However, only the landowner and the Department may set traps on a beaver
415 dam on Tribal land; this privilege may not be transferred to an agent.

416 (b) *Emergencies*. Nuisance animals for which a nuisance animal removal permit is
417 otherwise required, may be removed without the required permit if such removal is
418 necessary to maintain a person's immediate health and safety.

419 (1) Persons taking a nuisance animal under emergency circumstances shall report
420 the emergency taking to the Department on the required form available with the
421 Department.

422 (2) The Department shall conduct an investigation into the validity of the alleged
423 emergency circumstance. If the investigation provides clear and convincing
424 evidence that the taking was not in fact required due to a legitimate threat to a
425 person's immediate health and safety, the Department shall classify the taking an
426 unlawful taking without a permit and shall take the appropriate corrective
427 measures.

428 406.8-4. *Designated Agents*. A landowner may utilize an agent to remove a nuisance animal
429 pursuant to the provisions of this law. If the requirements of this law and corresponding rules are
430 satisfied, the landowner's nuisance animal removal permit and associated carcass tags, if
431 applicable, may be utilized by the landowner's assigned agent.

432 (a) In order for an agent to be assigned to remove a nuisance animal, the landowner shall
433 ensure that the following conditions are met:

434 (1) The agent shall have a valid license for hunting or trapping that nuisance
435 animal's species;

436 (2) The landowner shall grant written permission to the agent specifically
437 identifying the following:

438 (A) The location of the nuisance animal where the removal activities are
439 sought to occur;

440 (B) An authorized time period for the removal of the nuisance animal; and

441 (C) Any other information as may be required by the rules established
442 pursuant to this law.

443 (b) The Department may limit the number of persons permitted to assist in a removal.

444 (c) The landowner or lessee permittee may not charge any assigned agent any form of
445 fee.

446 406.8-5. *Annual Migratory Bird Report*. Persons killing crows, cowbirds, grackles, and red-
447 winged blackbirds shall provide an annual report to the U.S. Fish and Wildlife Service Region 3
448 Migratory Bird Permit Office by January 31st for all such takings occurring within the previous
449 January to December.

450 406.8-6. *Department Warden's Access*. Any landowner or lessee pursuing the removal of a
451 nuisance animal shall grant Department wardens free and unrestricted access to the premises on
452 which the said removal is being conducted, is anticipated to be conducted, or has been
453 conducted. Further, the landowner or lessee, and the landowner's agent, if applicable, shall
454 promptly furnish any information requested by a Department warden relating to the said
455 removal.

456 406.8-7. *Retaining Fur, Carcasses and other Parts of Nuisance Animals*. The following applies

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457 to nuisance animals removed in accordance with this section:

458 (a) The permittee and each agent assigned under section 406.8-4 may retain no more than
459 one (1) deer removed pursuant to a nuisance animal removal permit. The Department
460 shall distribute or dispose of any deer that are not so retained by offering them to Tribal
461 members in the following order:

462 (1) Elders;

463 (2) Disabled persons; and

464 (3) Any other interested persons.

465 (b) In order to keep, either for oneself or for sale, the furs of a nuisance animal taken
466 pursuant to a nuisance animal removal permit, the permittee shall be explicitly and
467 separately authorized by the permit to retain the wildlife and to sell the wildlife.

468 (c) Furs from nuisance animals which did not require a nuisance animal removal permit
469 in order to be removed, may be retained by a landowner, lessee or assigned agent without
470 a permit. Provided that the landowner, lessee or assigned agent shall have a valid license
471 and/or permit in order to commercialize in, sell, trade, ship or transport any wildlife,
472 except that any squirrels' parts retained may be sold during the closed season.

473

474 **406.9. Hunting**

475 406.9-1. *General Firearm and Archer Restrictions.* Persons may not:

476 (a) Hunt using any weapon other than a firearm, air rifle, bow or crossbow that is
477 authorized under this law and corresponding rules for the taking of a particular species.

478 (b) Discharge a firearm, air rifle, bow or crossbow:

479 (1) Into reservation lakes, reservoirs, or any area designated for public use
480 pursuant to the Public Use of Tribal Land law, except for the purpose of hunting
481 migratory birds during established seasons, in accordance with the rules created
482 pursuant to this law;

483 (2) Across any roadway; or

484 (3) Within one hundred (100) yards of any structure, unless the owner-occupant,
485 lessee or tenant has granted express permission.

486 (c) Transport any loaded firearm, air rifle, or cocked bow or crossbow in a vehicle.

487 406.9-2. *General Hunting Restrictions.* Persons may not, unless specifically authorized by a
488 permit, if applicable, do any of the following:

489 (a) Hunt with the use of aircraft;

490 (b) Hunt within fifty (50) feet of the center of a paved road;

491 (c) Hunt from a vehicle;

492 (d) Hunt while under the influence of alcohol or a controlled substance;

493 (e) Hunt with the aid of artificial light, provided that it is permissible to use artificial light
494 to find one's way and while hunting on foot, at the point of harvest of coyote, raccoon,
495 fox, or any other authorized unprotected species;

496 (f) Shine between the hours of 10:00 p.m. and sunrise during the months of September,
497 October, November and December; during all other months, shining is allowed at any
498 hour;

499 (g) Hunt in a party of more than ten (10) persons;

500 (h) Hunt with, or possess while hunting:

501 (1) Any firearm for which the possession is unlawful under Wisconsin or Federal
502 law;

503 (2) Slugs, except that a person may possess slugs during deer firearm season if he

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- 504 or she also possesses the required associated permit;
- 505 (3) A handgun with a barrel length of less than five (5) inches;
- 506 (4) A concealed handgun without a valid permit from the State of Wisconsin;
- 507 and/or
- 508 (5) Any of the following without a valid federal permit:
- 509 (A) A shotgun that has a barrel length of less than eighteen (18) inches or
- 510 an overall length of less than twenty-six (26) inches;
- 511 (B) A rifle that has a barrel length of less than sixteen (16) inches or an
- 512 overall length of less than twenty-six (26) inches;
- 513 (C) A fully-automatic firearm;
- 514 (D) Any mechanism designed to muffle, silence or minimize the report of
- 515 any firearm.
- 516 406.9-3. *Accidents.* Any person, who discharges a firearm, bow, or crossbow while hunting
- 517 and injures another person, shall render or attempt to obtain necessary medical assistance,
- 518 provide the injured person with his or her name and contact information including address, and
- 519 report the accident to either the Department or the Oneida Police Department as soon as possible.
- 520 406.9-4. *Designated Hunters.* A permittee may name a designated hunter to hunt, fish, or trap
- 521 on behalf of the permittee in the event that the permittee is physically or legally unable to take
- 522 pursuant to his or her own permit, provided that, the designated hunter shall provide his or her
- 523 name and contact information to the Department along with a signed statement from the original
- 524 permittee naming the designated hunter. The designated hunter shall receive the Department's
- 525 approval of the designation before using the permits of the original permittee.
- 526 (a) To be eligible to be named a Designated Hunter, the named person shall:
- 527 (1) Possess a valid hunting license;
- 528 (2) Be eligible for the permits for which the person is named the designated
- 529 hunter; and
- 530 (3) Meet any other requirements of the rules created pursuant to this law.
- 531 (b) Designated hunters may hunt for the number of permittees as authorized by the rules
- 532 developed pursuant to this law.
- 533 (c) Any wildlife taken by a designated hunter remains the property of the original
- 534 permittee; the designated hunter shall transfer any wildlife taken by designation to the
- 535 original permittee's possession as soon as practicable following the taking.
- 536 406.9-5. *Age Restrictions.*
- 537 (a) Persons between the ages of twelve (12) and fourteen (14) years old may only hunt if
- 538 they have obtained the required license and permits and are under the immediate
- 539 supervision of a parent, legal guardian or a responsible adult to which a parent or legal
- 540 guardian has delegated his or her supervisory responsibilities. Adults accompanying
- 541 youth hunters pursuant to this section shall remain within voice and sight contact of the
- 542 youth hunters at all times.
- 543 (b) Tribal members, descendants², non-member Indians and dependents aged ten (10) or
- 544 eleven (11) years old may hunt if they have a mentor present while hunting and have
- 545 obtained any required licenses and permits.
- 546 (c) Tribal members, descendants³, non-member Indians and dependents having less than

² Requirements for descendency are determined by the Oneida Trust Enrollment Committee.

³ See footnote 2.

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547 ten (10) years of age may accompany a mentor while hunting, provided that youth under
548 the age of ten (10) may not use a weapon during the hunt.

549 (d) The following limitations apply to youth hunters and their mentors hunting pursuant
550 to this section:

551 (1) Only one (1) weapon may be possessed jointly between the mentor and his or
552 her mentee(s);

553 (2) Mentors may mentor a maximum of two (2) youth hunters at the same time;
554 and

555 (3) The mentor shall remain within an arm's grasp of each youth hunter at all
556 times.

557 (e) In order to be eligible to be a mentor, the person shall:

558 (1) Be at least eighteen (18) years old;

559 (2) Have a valid license and any required permits; and

560 (3) Be the youth hunter's parent or legal guardian or have permission from the
561 hunter's parent or legal guardian to be the hunter's mentor.

562 406.9-6. *Deer Hunting Parties.* A deer hunting party consists of a minimum of two (2) people
563 and may be limited in size as provided in the rules developed pursuant to this law. Any member
564 of a deer hunting party may harvest deer on behalf of another member of the deer hunting party
565 under the following circumstances:

566 (a) At the time and place of the harvest, the member of the hunting party who harvests
567 the deer shall be in contact with the member of the hunting party on whose behalf the
568 deer was harvested. For the purpose of this section, contact means visual or voice contact
569 without the aid of any mechanical or electronic amplifying device other than a hearing
570 aid. Hand radios are permitted, however may not be used as an acceptable means of
571 contact as required in this section.

572 (b) The member of the hunting party for whom the deer was harvested shall possess a
573 valid, license and carcass tag for the deer.

574 (c) The member of the hunting party who harvests the deer shall ensure that a valid
575 carcass tag is attached to the deer by a member of the hunting party prior to field dressing
576 and moving the deer; the member of the hunting party that harvests the deer may not
577 leave said deer unattended until it has been properly tagged.

578

579 **406.10. Enforcement and Penalties**

580 406.10-1. *Reporting Violations.* All persons shall report any violation(s) of this law and/or the
581 corresponding rules to the Department or the Oneida Police Department. The department
582 receiving information regarding violations shall keep the information confidential.

583 406.10-2. *Licenses/Permits Suspension, Revocation and/or Ineligibility.* The Department may
584 suspend, revoke or deem a party ineligible for a license or permit as a penalty for committing any
585 one (1) of the following acts or any combination thereof:

586 (a) Has committed an act causing any of his or hers hunting, fishing or trapping licenses,
587 permits or privileges to be suspended or revoked by any other jurisdiction, whether it be
588 tribal, state or federal, where, for the purposes of this section, a person's right to possess
589 firearms is considered a hunting privilege;

590 (b) Provides false information, or assists other in providing false information, when
591 applying for a license or permit;

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592 (c) Fails to timely pay a fine or abide by a penalty assessed against him or her as a
 593 consequence for violating the provisions of this law and/or the corresponding rules;
 594 and/or

595 (d) Violates this law and/or the corresponding rules and the violation is one for which the
 596 citation schedule identifies suspension, revocation, or ineligibility of a license or permit
 597 as an available penalty.

598 406.10-3. *Warning and Citations.* Department wardens may issue verbal and/or written
 599 warnings and/or citations to any person found to be in violation of this law and/or the
 600 corresponding rules. The Department shall ensure that all warning and citations identify the
 601 relevant violation and, if applicable, the fine and/or penalties imposed as a consequence of the
 602 violation.

603 406.10-4. *Appeal of License and/or Permit Decision.* Any person wishing to contest a decision
 604 of the Department related to a license and/or permit may appeal such action by filing a complaint
 605 with the Judiciary Trial Court naming the Department.

606 406.10-5. *Contested Action Hearings.* All citations, orders and declarations issued pursuant to
 607 this law shall include a pre-hearing date with the Judiciary Trial Court which shall be set for the
 608 next scheduled monthly prehearing date that is at least thirty (30) days after the citation was
 609 issued. Persons wishing to contest a citation shall appear at the prehearing, at which time the
 610 Judiciary Trial Court shall accept pleas which either contest or admit committing the act for
 611 which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as
 612 possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing,
 613 for all persons entering a plea contesting the fact that they committed the act for which a citation
 614 was issued. In addition to scheduling requested hearings, the Judiciary may also make
 615 conditional orders at the prehearing which are effective until the matter is resolved.

616 (a) *Community Service.* Community service may be substituted for fines at the
 617 Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of
 618 one (1) hour per ten dollars (\$10.00) of the fine.

619 (b) *Allocation of Citation Revenue.* All fines and penalties issued by citations are
 620 payable to ERB or its designee, the proceeds of which ERB shall contribute to the
 621 Nation's general fund.

622 (c) *Appealing the Decision of the Judiciary Trial Court.* Any person wishing to contest
 623 the determination of the Judiciary Trial Court may appeal the applicable determination to
 624 the Judiciary's Court of Appeals in accordance with the Rules of Appellate Procedure.

625 (d) *Pursuing Payment of a Citation.* ERB may pursue payment from parties who have
 626 failed to make the required payments through the garnishment process contained in the
 627 Garnishment law and/or by attaching a Tribal member's per capita payment pursuant to
 628 the Per Capita law.

629 *End.*

~~630~~

Adopted - BC-8-31-94-C

Adopted - BC-4-24-96-A

Adopted - BC-07-22-98-A

Amended - BC-09-13-00-D

Amended - BC-6-04-03-A

Amended - BC-6-30-04-I

Amended - BC-7-13-05-E

Amended - BC-8-29-07-F

Amended - BC-06-24-09-E

Amended - BC-08-26-10-I

Emergency Amended - BC-06-22-11-H (Expired)

Amended - BC-12-14-11-E

Amended - BC-05-22-13-A

Amended - BC-01-25-17-D

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Title 4. Environment and Natural Resources – Chapter 406
HUNTING, FISHING AND TRAPPING
Lutol@tha>, Latsyw@aha> O>kh@le Atlist@y< Tsi> Kayanl^hsla
Our laws concerning hunting, fishing and trapping

406.1.	Purpose and Policy	406.6.	Licenses and Permits
406.2.	Adoption, Amendment, Repeal	406.7.	General Regulations
406.3.	Definitions	406.8.	Wildlife Damage and Nuisance Control
406.4.	Jurisdiction	406.9.	Hunting
406.5.	Administration and Supervision	406.10.	Enforcement and Penalties

406.1. Purpose and Policy

406.1-1. *Purpose.* The purpose of this law is to protect and conserve wildlife on the reservation and to promote respect among sportsmen, respect both the environment and fellow sportsmen.

406.1-2. *Policy.* It is the policy of this law to provide:

- (a) An adequate and flexible system for the protection, management, supervision, conservation, and enhancement of all wildlife and natural resources on the reservation; and
- (b) An enforceable system of licensing and permitting which establishes clear rules pursuant to the Administrative Rulemaking law related to hunting, fishing and trapping, and associated fines and penalties for violations of this law and the said rules.

406.2. Adoption, Amendment, Repeal

406.2-1. This law was adopted by the Oneida Business Committee by resolution BC-8-31-94-C, and amended by resolutions BC-4-24-96-A, BC-7-22-98-A, BC-09-13-00-D, BC-6-04-03-A, BC- 6-30-04-I, BC-7-13-05-E, BC-8-29-07-F, BC-06-24-09-E, BC-08-26-10-I, BC-12-14-11-E, BC-05-22-13-A and BC-01-25-17-D.

406.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

406.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

406.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

406.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

406.3. Definitions

406.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) “Aircraft” means a conveyance that can travel through the air and that is supported either by its own lightness or by the action of the air against its surfaces. The term includes hovercraft and both manned aircraft such as airplanes and helicopters and unmanned aircraft such as drones.
- (b) “Barrel Length” means the length of a gun’s barrel as measured from the muzzle to the firing pin with the action closed, or from the muzzle to the breech face.
- (c) “ERB” means the Environmental Resources Board.
- (d) “Daily Bag Limit” means the maximum number of a species of wildlife that a person may take during a twenty-four (24) hour period measured from midnight to

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- 39 midnight.
- 40 (e) “Department” means the Oneida Conservation Department.
- 41 (f) “Dependent” means a person under the age of eighteen (18) who is the child or
42 step-child of a Tribal member or who lives with a Tribal member for more than half of
43 the year.
- 44 (g) “Designated Hunter” means the person named by a permittee as authorized to
45 harvest wildlife on behalf of the permittee pursuant to the permit held by the permittee.
- 46 (h) “Elder” means any person fifty-five (55) years of age or older.
- 47 (i) “Endangered or Threatened” means any species of wildlife within the reservation in
48 danger of extinction or likely to become in danger of distinction as recognized by ERB
49 and the Department and under federal law.
- 50 (j) “Fine” means a monetary punishment issued to a person violating this law and/or
51 the rules created pursuant to this law, which is payable to ERB or the Department within
52 the amount of time designated by the rules.
- 53 (k) “Fishing” means the taking, capturing, harvesting or attempting to take, capture or
54 harvest fish of any variety in any manner.
- 55 (l) “Hunt” or “Hunting” means shooting, shooting at, pursuing, taking, attempting to
56 take, catch, harvest or attempting to harvest any wildlife.
- 57 (m) “License” means a written document issued by the Department granting authority to
58 engage in specific activities covered under this law and the rules created pursuant to this
59 law.
- 60 (n) “Loaded” means any firearm containing a cartridge in the chamber or any firearm
61 containing a cartridge or cartridges in the attached cylinder, magazine or clip.
- 62 (1) Muzzleloading firearms may not be considered loaded if a percussion cap is
63 not covering the percussion nipple or .209 primers are not in the receiver.
- 64 (2) Flint lock muzzleloading firearms may not be considered loaded if the flash
65 pan is cleaned of powder.
- 66 (o) “Nation” means the Oneida Nation.
- 67 (p) “Non-Indian” means a person who is not a member of any federally recognized
68 Indian tribe, band, or community.
- 69 (q) “Non-Member Indian” means a person who is a member of a federally recognized
70 Indian tribe, band or community other than this Nation.
- 71 (r) “Nuisance Animal” means any wildlife causing and one (1) or combination of the
72 following:
- 73 (1) Damage to property;
- 74 (2) Damage to or endangered or threatened species of wildlife and/or plants;
- 75 (3) Depredation of crops and/or livestock; or
- 76 (4) Health and/or safety risks posed to persons.
- 77 (s) “Penalty” means a punishment, other than a fine, imposed on a person violating this
78 law and/or the rules created pursuant to this law and may include, but is not limited to,
79 the confiscation of equipment and/or wildlife with return of the same at the discretion of
80 ERB, the imposition of a wildlife protection assessment (civil recovery value), revocation
81 and/or ineligibility for licenses and/or permits for a specified period of time, and
82 restitution.
- 83 (t) “Permit” means a document, stamp or tag authorizing a specific activity which is
84 issued by the Department to the holder of a license.

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- 85 (u) “Protected Species” means any species of wildlife that is not endangered or
86 threatened, but for which ERB has established seasons, daily bag limits, or otherwise
87 restricted the taking of.
- 88 (v) “Reservation” means all the property within the exterior boundaries of the
89 reservation of the Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat.
90 566, and any lands added thereto pursuant to federal law.
- 91 (w) “Rule” means a set of requirements, including citation fees and penalty schedules,
92 enacted by ERB and/or the Department in accordance with the Administrative
93 Rulemaking law based on authority delegated in this law in order to implement, interpret
94 and/or enforce this law.
- 95 (x) “Take” or “Taking” means pursuing, shooting, hunting, fishing, netting (including
96 placing or setting any net or other capturing device), capturing, harvesting, snaring or
97 trapping any wildlife, or attempting any of the foregoing.
- 98 (y) “Transport” means to bring or move from one place to another by means of
99 carrying, dragging, pushing, towing, or storing in or on a vehicle, aircraft or boat.
- 100 (z) “Trapping” means the taking of, or attempting to take, any wildlife by means of
101 setting or operating any device or mechanism that is designed, built, or made to close
102 upon, hold fast, snare or otherwise capture wildlife.
- 103 (aa) “Tribal Land” means any land within the reservation that is held in fee or in trust
104 and is owned by the Nation, a Tribal member, or a non-member Indian.
- 105 (bb) “Tribal Member” means an enrolled member of the Nation.
- 106 (cc) “Vehicle” means any self-propelled conveyance that derives power from a motor
107 and is used to transport persons or objects over land, including but not limited to, an
108 automobile, truck, sport utility vehicle, snowmobile, motorcycle, all-terrain vehicle,
109 moped or similar conveyance.
- 110 (dd) “Wildlife” means any non-domesticated mammal, bird, fish, reptile, or amphibian,
111 or any part or carcass of the same.¹

113 406.4. Jurisdiction

114 406.4-1. This law applies to the following persons:

- 115 (a) All Tribal members,
116 (b) All non-member Indians, ~~and~~
117 (c) All non-Indians who:
118 ~~(1) enter Tribal land, or~~
119 ~~(2) apply for and receive a license and/or permit, and/or~~
120 ~~(2) enter Tribal land,~~
121 (d) All persons as otherwise permitted under federal law.

122 406.4-2. This law applies:

- 123 (a) within the boundaries of the reservation, and
124 (b) on lands held in trust for the Nation outside the boundaries of the reservation.

125 406.4-3. ~~—Lack of State Jurisdiction.—~~ The Nation ~~and the federal government have sole~~has
126 jurisdiction over the management and regulation of the Nation’s natural resources. ~~Accordingly,~~

¹ For additional information, please reference the definition of “domestic animal” in the Nation’s Domestic Animal law; any animal that does not fall into the “domestic animal” classification is considered “wildlife” for the purpose of this law.

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127 ~~licenses, permits, tags~~ However this law shall not negate the jurisdiction of the State of Wisconsin
128 ~~in certain instances involving non-member Indians and non-Indians. Thus, to hunt, fish, or trap~~
129 ~~on tribal land, non-member Indians and the like issued by non-Indians shall adhere to the state~~
130 ~~have no legal effect on lands over which~~ Nation's license, permit, and tag requirements and may
131 ~~also be subject to the Nation exercises its jurisdiction under Section 406.4-2-~~ requirements of the
132 ~~State of Wisconsin. License and permit holders may not exercise any hunting, fishing, or~~
133 ~~tapping privileges within the Reservation boundaries using a State of Wisconsin license that~~
134 ~~would amount to greater privileges than those afford pursuant to this Law and associated rules.~~

135

136 **406.5. Administration and Supervision**

137 406.5-1. ERB and the Department, shall protect, manage, supervise, conserve, and enhance all
138 wildlife within the reservation. ERB and the Department shall jointly establish and maintain the
139 rules that are required to implement this law. The Department shall administer and enforce this
140 law and the rules created pursuant to this law.

141 406.5-2. *Authority.* In addition to any other duties delegated to ERB and the Department under
142 this law, jointly, ERB and the Department are hereby jointly delegated the rulemaking authority
143 to:

144 (a) Determine the types and number of licenses and permits that may be issued by the
145 Department, including how many licenses and permits that may be issued to non-Indian
146 hunters.

147 (b) Establish a fee schedule and application requirements and deadlines for obtaining
148 licenses and/or permits.

149 (c) Establish or amend daily bag limits and possession limits based on the supply of
150 wildlife, the needs of conservation, and the objective of achieving a fair allocation of the
151 harvest. Restrictions in such rules may include, but are not limited to, limits related to
152 gender, species, size, age, and maturity.

153 (d) Based on the monitoring and supervision of all wildlife, when necessary, declare any
154 species in need of protection a protected species or an endangered or threatened species,
155 and thereafter modify or revoke such declarations as may be appropriate.

156 (e) Fix, shorten, extend or close seasons and hunting hours on any wildlife. Provided that
157 ERB and the Department shall base the open season for the hunting of migratory birds on
158 the Nation's agreement with the U.S. Fish and Wildlife Service.

159 (f) Establish and/or modify areas' territorial limits, including bodies of water or parts
160 thereof, for any of the following, as may be necessary:

161 (1) the taking of wildlife;

162 (2) other specified areas, pursuant to the rules jointly developed by ERB and the
163 Department.

164 (g) Establish methods for checking persons into and out of areas specified under
165 subsection (f) above.

166 (h) Regulate the operation of boats upon reservation waters and the operation of vehicles
167 and aircraft used while hunting, fishing or trapping.

168 (i) Regulate and prescribe the means and methods by which wildlife may be taken,
169 including, but not limited to, the use of:

170 (1) bait,;

171 (2) decoys;

172 (3) hunting dogs

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- 173 (4) traps;
174 (5) firearms;
175 (6) ammunition;
176 (7) laser sights; and
177 (8) night vision.
- 178 (j) Regulate the transportation, registration, tagging, and storage of all wildlife within the
179 reservation and the shipment or transportation of wildlife off the reservation.
- 180 (k) Prescribe safety and fire control measures and other rules as may be necessary for
181 range, forest or wildlife management, and/or for the safety and welfare of outdoor
182 recreationists, landowners, lessees, occupants and the Nation.
- 183 (l) Establish a process for retention, storage and disposal of items confiscated or turned
184 over to the Department in accordance with this law and the rules established pursuant to
185 this law.
- 186 (m) Establish a citation schedule that sets the monetary fines and penalties for violations
187 of this law and/or the rules established pursuant to this law.
- 188 (n) Create other rules as specifically directed throughout this law or as may be necessary
189 to implement this law. ERB shall provide notice of said rules both on ERB's ~~the Nation's~~
190 website and ERB and/or the Department shall develop a rule booklet, which the
191 Department shall provide to each person receiving a license or permit pursuant to this
192 law.

193 406.5-3. *Department Wardens.* Department wardens shall enforce this law and corresponding
194 rules on the reservation, and, accordingly shall:

- 195 (a) Observe persons engaged in hunting, fishing and/or trapping in order to ensure that
196 the methods and equipment utilized are lawful.
- 197 (b) Investigate reports of violations of wildlife and environmental laws, including, but
198 not limited to, this law and corresponding rules.
- 199 (c) Work to prevent persons from violating this law and/or the corresponding rules.
- 200 (d) Issue warnings and/or citations, which may include fines and/or penalties, for
201 violations of this law and/or the corresponding rules.

202 406.5-4. *Oneida Police Department.* Any Oneida Police Department officer, who observes a
203 violation of this law and/or corresponding rules, shall report such violation to the Department
204 and/or a Department warden. However, if immediate action is necessary to prevent imminent
205 danger to life or serious damage to property, the Oneida Police Department officer may issue a
206 warning or citation for the said violation(s) and/or prevent persons from committing the said
207 violation(s).

208

209 **406.6. Licenses and Permits**

210 406.6-1. *Sportsman License.*

- 211 (a) A sportsman license is required for all persons hunting, fishing or trapping on Tribal
212 land, except:
- 213 (1) Fishing is permitted without a sportsman license for Tribal members,
214 dependents, and non-member Indians whom are sixteen (16) years of age or
215 younger.
- 216 (2) Landowners and lessees and guests with the permission of the landowners or
217 lessees, may hunt and trap the following species on the property they own or
218 lease, year-round, without a sportsman license:

- 219 (A) coyote;
220 (B) fox;
221 (C) raccoon;
222 (D) woodchuck;
223 (E) rabbit;
224 (F) squirrel; and
225 (G) any nuisance animal that is not an endangered or threaten species and
226 is also not a regulated or protected species.

227 (b) Anyone born on or after January 1, 1973 shall successfully complete a state-certified
228 hunter safety course to be eligible for a sportsman license, except that:

229 (1) *Fishing Only Sportsman License*. A sportsman license may be issued which
230 permits fishing only. In such circumstances, successful completion of a state-
231 certified hunter safety course is not required and the Department shall internally
232 record such licenses as permitting fishing only.

233 (A) A person issued a “fishing only” sportsman license may not hunt or
234 trap, or be eligible to hunt or trap, until the licensee provides the
235 Department with proof of successful completion of a state-certified hunter
236 safety course.

237 (B) Any licensee holding a fishing only sportsman license may name a
238 designated hunter to fill the hunting or trapping permits that regularly
239 accompany a sportsman license based on the rules established pursuant to
240 this Law. For the requirements related to naming a designated hunter,
241 refer to section 406.9-4.

242 406.6-2. *Ceremonial and/or Feast Permit*. Tribal members may apply for a ceremonial and/or
243 feast permit to group hunt wildlife outside of the regular applicable seasons.

244 (a) When the ceremonial and/or feast permit is for deer hunting, it may only be issued for
245 antlerless deer.

246 (b) A ceremonial and/or feast permit may be issued to a group and/or organization
247 meeting each of the following requirements:

248 (1) At least eighty-five percent (85%) of the group and/or organization members
249 are Tribal members;

250 (2) The agent of the group/organization is a Tribal member;

251 (3) The occasion for the ceremonial and/or feast requiring the hunt out of season
252 is recognized by the Oneida community; and

253 (4) The hunt takes place on the reservation.

254 (c) All persons participating in the ceremonial and/or feast hunt shall be named hunters
255 on the ceremonial and/or feast permit.

256 (d) The agent of the group ceremonial and/or feast hunt shall notify the Department
257 warden of the time and place where the hunt will take place no later than twenty-four (24)
258 hours prior to the hunt. The Department warden may monitor any portion, or the entirety,
259 of the group ceremonial and/or feast hunt.

260 406.6-3. *Other Permits, Tags and Stamps*. In accordance with this law and corresponding rules,
261 the Department may issue permits authorizing a person to engage in specific hunting, fishing
262 and/or trapping activities, including nuisance animal removal permits pursuant to section 406.8-
263 2.

264 406.6-4. It is unlawful for any person to:

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- 265 (a) Provide false information or fail to report relevant information as requested by the
266 Department, when applying for a license or permit; or
267 (b) Aid another in fraudulently securing a license or permit.
- 268 406.6-5. Except as provided under sections 406.6-1(b)(1)(A), 406.9-4 and 406.9-6, licenses
269 and/or permits are not transferable and may not be altered, defaced or lent to or from another
270 person, any may not be used by any person other than the person to whom the license and/or
271 permit is issued.
- 272 406.6-6. *Disabled Hunter Permits.* The Department may issue a disabled hunter permit to any
273 person who is physically disabled, upon a showing of medical verification of a physical
274 disability. Disabled hunters shall display the disabled hunter permit sticker in a manner and
275 location as required by the Department. A disabled hunter permit authorizes a person to hunt
276 from a stationary vehicle within fifty (50) feet on the center of a road as further detailed in the
277 rules developed pursuant to this law.
- 278 406.6-7. *Denial of a License or Permit.*
- 279 (a) The Department may decline to issue a license and/or permit to an applicant if:
- 280 (1) The applicant has unpaid fines, civil assessments, other fees and/or restitution
281 owed because of a violation of this law and/or corresponding rules.
- 282 (2) At any time and for any reason, the Department determines that issuing the
283 license and/or permit poses a risk to the health, safety, and/or welfare of the
284 Nation, to natural resources on the reservation, or to any persons. There is a
285 rebuttable presumption that an applicant poses such a risk under the following
286 circumstances:
- 287 (A) At the time of the request, the applicant's hunting, fishing or trapping
288 license, permit or related privileges are suspended or revoked in any
289 jurisdiction.
- 290 (B) Within three (3) years of the request, the applicant has repeatedly
291 and/or egregiously done any one (1) or more of the following:
- 292 (i) violated this law and/or corresponding rules and/or the
293 hunting, fishing, or trapping laws and regulations of other
294 jurisdictions;
- 295 (ii) violated other laws or rules of the Nation while engaged in
296 hunting, fishing or trapping activities; or
- 297 (iii) demonstrated poor judgment, disregard for safety or
298 unsportsmanlike behavior while hunting, fishing or trapping;
299 including while interacting with other sportsmen or with wardens,
300 of this jurisdiction or any other.
- 301 (C) At any time, the applicant has been found guilty of imposing or
302 threatening to impose great bodily harm on another. For the purposes of
303 this section, great bodily harm means bodily injury which creates a
304 substantial risk of death, or which causes serious permanent
305 disfigurement, or which causes a permanent or protracted loss or
306 impairment of the function of any bodily member or organ or other serious
307 bodily injury.
- 308 (b) Any person who has had a license or permit denied in accordance with section 406.6-
309 7(a) may appeal the Department's decision by requesting a hearing before ERB pursuant
310 to section 406.10-4.

- 311
312 **406.7. General Requirements**
313 406.7-1. Persons may not:
- 314 (a) Enter onto private lands and/or waters to take or retrieve wildlife, without permission
315 from the landowner, lessee or occupant.
 - 316 (b) Leave, deposit, place or throw litter, debris, wildlife, or any other waste material, on
317 the reservation's lands and waters.
 - 318 (c) Cause damage to land or property belonging to another, including but not limited to,
319 the Department's decoys placed for law enforcement purposes by Department wardens or
320 other law enforcement officers, and signs that give notice of a hunting and/or trespass
321 restriction.
 - 322 (d) Carelessly waste wildlife. Persons hunting, trapping or fishing shall make every
323 reasonable effort to retrieve all wildlife killed or crippled, provided that all persons shall
324 comply with section 406.7-1(a).
 - 325 (e) Knowingly disturb any den, nest, lodge, hut, dam or house that wildlife may build to
326 shelter themselves and their young.
 - 327 (f) No person may take, pursue, injure, or harass small game while on or in its nest or
328 den, or remove any eggs or young except as may be approved in advance by the
329 Environmental Resource Board for activities which may include, but are not limited to,
330 normal agricultural or horticultural practices or wildlife research practices.
 - 331 (g) Harvest wildlife with the aid of an explosive, poison, exploding point or tip, electrical
332 device or stupefying substance or agent.
 - 333 (h) Take another person's wildlife or disturb another person's hunting, fishing, or
334 trapping equipment without permission; or otherwise interfere with the lawful hunting,
335 fishing, or trapping of another person.
 - 336 (i) Stock or possess any live wildlife on the reservation without a permit.
 - 337 (j) Introduce or release wildlife, fish eggs, or receptacles containing bait, on the
338 reservation or into reservation waters without a permit.
 - 339 (k) Use in a reckless manner any device typically used for the harvesting of wildlife,
340 including but not limited to, firearms, bows, traps and knives.
 - 341 (l) Shoot firearms, or place or operate any traps, except live traps, within one hundred
342 (100) yards of any building structure, unless the owner-occupant, lessee or tenant has
343 given permission.
 - 344 (m) Use a gas powered motorboat on the Nation's waters, except for the Department's use
345 for law enforcement and conservation purposes.
 - 346 (n) Hunt, trap, or possess any hunting, or trapping equipment while on Tribal land where
347 hunting or trapping is expressly prohibited by the Nation's laws or rules.
 - 348 (o) Sell or purchase wildlife that was harvested on the reservation, except as may be
349 expressly allowed by this law and corresponding rules.
 - 350 (1) Under no circumstances may trading, gifting, or sharing of wildlife for
351 traditional or ceremonial purposes be considered a violation of this section.
 - 352 (p) Refuse to obey a Department warden's lawful order.
 - 353 (q) Inflict or threaten to inflict bodily harm upon a Department warden. For the purposes
354 of this law, "bodily harm" means physical pain or injury or any impairment of the
355 physical condition.
- 356 406.7-2. *Possession, Registration and Transportation of Carcasses.* No person may hunt, trap,

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357 possess or transport any wildlife unless he or she possesses the appropriate license and any
358 required permit, including tags, for harvesting and/or possessing such wildlife.

359 406.7-3. Any person who accidentally collides with and kills a deer while operating a vehicle
360 on a roadway, may retain possession of the said deer, provided that the person shall have the deer
361 tagged by the Department or the Department's designee.

362 406.7-4. *Carcass Tags*. Except as otherwise provided in this law and corresponding rules, any
363 person hunting a species of wildlife which is required to be tagged, shall possess a valid carcass
364 tag, and, upon harvest, shall immediately validate and attach the tag to the carcass in such
365 manner as ERB and the Department shall jointly establish in its the rules. No person may
366 possess or transport harvested wildlife that is not properly tagged in accordance with this law and
367 corresponding rules.

368 406.7-5. *Health Advisory*. ERB and the Department shall ensure that all hunting and fishing
369 rule booklets contain a warning stating that fish caught in Duck Creek, as well as ducks, geese
370 and other wildlife may contain Polychlorinated Biphenyl (PCBs) which may pose risks of health
371 defects, that such risks are greatest for women and children, and that detailed information about
372 PCBs is available from the Department upon request.

373

374 **406.8. Wildlife Damage and Nuisance Control**

375 406.8-1. Landowners and lessees may remove wildlife considered a nuisance animal from land
376 under their control and their associated structures, provided that landowners and lessees shall
377 satisfy all requirements of this law and corresponding rules , including, but not limited to the
378 permitted methods of taking and hunting hours. Further, live-captured nuisance animals may not
379 be relocated to Tribal lands without express written authorization from the Department, and,
380 similarly, may not be relocated to private property without express written authorization from the
381 landowner.

382 406.8-2. *Nuisance Animal Removal Permit*. A nuisance animal removal permit is required to
383 hunt, trap, or live-capture and relocate any endangered or threatened and protected species.

384 (a) In order to be eligible for a nuisance animal removal permit, the applicant shall
385 demonstrate that:

386 (1) He or she has the authority to control hunting and trapping access to the lands
387 subject to the nuisance or being damaged as well as any contiguous lands. In
388 circumstances where the contiguous lands are not owned or leased by the
389 applicant, the applicant shall demonstrate authority to control hunting and
390 trapping access to the contiguous lands by providing the Department with the
391 property owner's or lessor's written consent;

392 (2) He or she either is employing or agrees to employ, reasonable alternative
393 abatement methods to removal;

394 (3) The wildlife sought to be removed is a nuisance animal and reasonable
395 alternative abatement methods either have been or are reasonably likely to be
396 unsuccessful;

397 (4) He or she has complied with this law and corresponding rules and the
398 conditions of any previously-issued nuisance animal removal permit, at a
399 minimum, for the previous twelve (12) months from the date he or she applies for
400 the permit;

401 (5) The nuisance animal removal permit applied for does not conflict with any
402 provisions of the Nation's agreement with the United States Fish and Wildlife

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- 403 Service regarding the taking of birds classified as migratory under 50 CFR 10.13.
- 404 (b) Each permittee shall keep a record of all permit activities and shall provide the said
- 405 permit record to the Department within ten (10) days of the permit's expiration. At a
- 406 minimum, the permittee shall include in the record any agents assigned under section
- 407 406.8-4 and the total number of nuisance animals removed pursuant to the permit,
- 408 provided that, the Department may name additional items required to be included in the
- 409 record. All permit records may be inspected by the Department at any time.
- 410 (c) The permittee shall return all unused permits, including carcass tags, to the
- 411 Department within ten (10) days of the permit's expiration.
- 412 406.8-3. *Nuisance Animal Removal Permit Not Required.* A nuisance animal removal permit is
- 413 not required if the nuisance animal would otherwise be exempt from the license and permit
- 414 requirements under section 406.6-1(a)(2). Also, a nuisance animal removal permit is specifically
- 415 not required in following circumstances:
- 416 (a) *Beaver.* A nuisance animal removal permit is not needed for a landowner, lessee, or
- 417 an authorized agent to hunt or trap beaver(s) that are nuisance animals, or to remove a
- 418 beaver dam. However, only the landowner and the Department may set traps on a beaver
- 419 dam on Tribal land; this privilege may not be transferred to an agent.
- 420 (b) *Emergencies.* Nuisance animals for which a nuisance animal removal permit is
- 421 otherwise required, may be removed without the required permit if such removal is
- 422 necessary to maintain a person's immediate health and safety.
- 423 (1) Persons taking a nuisance animal under emergency circumstances shall report
- 424 the emergency taking to the Department on the required form available with the
- 425 Department.
- 426 (2) The Department shall conduct an investigation into the validity of the alleged
- 427 emergency circumstance. If the investigation provides clear and convincing
- 428 evidence that the taking was not in fact required due to a legitimate threat to a
- 429 person's immediate health and safety, the Department shall classify the taking an
- 430 unlawful taking without a permit and shall take the appropriate corrective
- 431 measures.
- 432 406.8-4. *Designated Agents.* A landowner may utilize an agent to remove a nuisance animal
- 433 pursuant to the provisions of this law. If the requirements of this law and corresponding rules are
- 434 satisfied, the landowner's nuisance animal removal permit and associated carcass tags, if
- 435 applicable, may be utilized by the landowner's assigned agent.
- 436 (a) In order for an agent to be assigned to remove a nuisance animal, the landowner shall
- 437 ensure that the following conditions are met:
- 438 (1) The agent shall have a valid license for hunting or trapping that nuisance
- 439 animal's species;
- 440 (2) The landowner shall grant written permission to the agent specifically
- 441 identifying the following:
- 442 (A) The location of the nuisance animal where the removal activities are
- 443 sought to occur;
- 444 (B) An authorized time period for the removal of the nuisance animal; and
- 445 (C) Any other information as may be required by the rules established
- 446 pursuant to this law.
- 447 (b) The Department may limit the number of persons permitted to assist in a removal.
- 448 (c) The landowner or lessee permittee may not charge any assigned agent any form of

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449 fee.
450 406.8-5. *Annual Migratory Bird Report*. Persons killing crows, cowbirds, grackles, and red-
451 winged blackbirds shall provide an annual report to the U.S. Fish and Wildlife Service Region 3
452 Migratory Bird Permit Office by January 31st for all such takings occurring within the previous
453 January to December.

454 406.8-6. *Department Warden's Access*. Any landowner or lessee pursuing the removal of a
455 nuisance animal shall grant Department wardens free and unrestricted access to the premises on
456 which the said removal is being conducted, is anticipated to be conducted, or has been
457 conducted. Further, the landowner or lessee, and the landowner's agent, if applicable, shall
458 promptly furnish any information requested by a Department warden relating to the said
459 removal.

460 406.8-7. *Retaining Fur, Carcasses and other Parts of Nuisance Animals*. The following applies
461 to nuisance animals removed in accordance with this section:

462 (a) The permittee and each agent assigned under section 406.8-4 may retain no more than
463 one (1) deer removed pursuant to a nuisance animal removal permit. The Department
464 shall distribute or dispose of any deer that are not so retained by offering them to Tribal
465 members in the following order:

- 466 (1) Elders;
467 (2) Disabled persons; and
468 (3) Any other interested persons.

469 (b) In order to keep, either for oneself or for sale, the furs of a nuisance animal taken
470 pursuant to a nuisance animal removal permit, the permittee shall be explicitly and
471 separately authorized by the permit to retain the wildlife and to sell the wildlife.

472 (c) Furs from nuisance animals which did not require a nuisance animal removal permit
473 in order to be removed, may be retained by a landowner, lessee or assigned agent without
474 a permit. Provided that the landowner, lessee or assigned agent shall have a valid license
475 and/or permit in order to commercialize in, sell, trade, ship or transport any wildlife,
476 except that any squirrels' parts retained may be sold during the closed season.
477

478 **406.9. Hunting**

479 406.9-1. *General Firearm and Archer Restrictions*. Persons may not:

480 (a) Hunt using any weapon other than a firearm, air rifle, bow or crossbow that is
481 authorized under this law and corresponding rules for the taking of a particular species.

482 (b) Discharge a firearm, air rifle, bow or crossbow:

483 (1) Into reservation lakes, reservoirs, or any area designated for public use
484 pursuant to the Public Use of Tribal Land law, except for the purpose of hunting
485 migratory birds during established seasons, in accordance with the rules created
486 pursuant to this law;

487 (2) Across any roadway; or

488 (3) Within one hundred (100) yards of any structure, unless the owner-occupant,
489 lessee or tenant has granted express permission.

490 (c) Transport any loaded firearm, air rifle, or cocked bow or crossbow in a vehicle.

491 406.9-2. *General Hunting Restrictions*. Persons may not, unless specifically authorized by a
492 permit, if applicable, do any of the following:

493 (a) Hunt with the use of aircraft;

494 (b) Hunt within fifty (50) feet of the center of a paved road;

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- 495 (c) Hunt from a vehicle;
496 (d) Hunt while under the influence of alcohol or a controlled substance;
497 (e) Hunt with the aid of artificial light, provided that it is permissible to use artificial light
498 to find one's way and while hunting on foot, at the point of harvest of coyote, raccoon,
499 fox, or any other authorized unprotected species;
500 (f) Shine between the hours of 10:00 p.m. and sunrise during the months of September,
501 October, November and December; during all other months, shining is allowed at any
502 hour;
503 (g) Hunt in a party of more than ten (10) persons;
504 (h) Hunt with, or possess while hunting:
505 (1) Any firearm for which the possession is unlawful under Wisconsin or Federal
506 law;
507 (2) Slugs, except that a person may possess slugs during deer firearm season if he
508 or she also possesses the required associated permit;
509 (3) A handgun with a barrel length of less than five (5) inches;
510 (4) A concealed handgun without a valid permit from the State of Wisconsin;
511 and/or
512 (5) Any of the following without a valid federal permit:
513 (A) A shotgun that has a barrel length of less than eighteen (18) inches or
514 an overall length of less than twenty-six (26) inches;
515 (B) A rifle that has a barrel length of less than sixteen (16) inches or an
516 overall length of less than twenty-six (26) inches;
517 (C) A fully-automatic firearm;
518 (D) Any mechanism designed to muffle, silence or minimize the report of
519 any firearm.
- 520 406.9-3. *Accidents.* Any person, who discharges a firearm, bow, or crossbow while hunting
521 and injures another person, shall render or attempt to obtain necessary medical assistance,
522 provide the injured person with his or her name and contact information including address, and
523 report the accident to either the Department or the Oneida Police Department as soon as possible.
- 524 406.9-4. *Designated Hunters.* A permittee may name a designated hunter to hunt, fish, or trap
525 on behalf of the permittee in the event that the permittee is physically or legally unable to take
526 pursuant to his or her own permit, provided that, the designated hunter shall provide his or her
527 name and contact information to the Department along with a signed statement from the original
528 permittee naming the designated hunter. The designated hunter shall receive the Department's
529 approval of the designation before using the permits of the original permittee.
- 530 (a) To be eligible to be named a Designated Hunter, the named person shall:
531 (1) Possess a valid hunting license;
532 (2) Be eligible for the permits for which the person is named the designated
533 hunter; and
534 (3) Meet any other requirements of the rules created pursuant to this law.
- 535 (b) Designated hunters may hunt for the number of permittees as authorized by the rules
536 developed pursuant to this law.
- 537 (c) Any wildlife taken by a designated hunter remains the property of the original
538 permittee; the designated hunter shall transfer any wildlife taken by designation to the
539 original permittee's possession as soon as practicable following the taking.
- 540 406.9-5. *Age Restrictions.*

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541 (a) Persons between the ages of twelve (12) and fourteen (14) years old may only hunt if
542 they have obtained the required license and permits and are under the immediate
543 supervision of a parent, legal guardian or a responsible adult to which a parent or legal
544 guardian has delegated his or her supervisory responsibilities. Adults accompanying
545 youth hunters pursuant to this section shall remain within voice and sight contact of the
546 youth hunters at all times.

547 (b) Tribal members, descendants², non-member Indians and dependents aged ten (10) or
548 eleven (11) years old may hunt if they have a mentor present while hunting and have
549 obtained any required licenses and permits.

550 (c) Tribal members, descendants³, non-member Indians and dependents having less than
551 ten (10) years of age may accompany a mentor while hunting, provided that youth under
552 the age of ten (10) may not use a weapon during the hunt.

553 (d) The following limitations apply to youth hunters and their mentors hunting pursuant
554 to this section:

555 (1) Only one (1) weapon may be possessed jointly between the mentor and his or
556 her mentee(s);

557 (2) Mentors may mentor a maximum of two (2) youth hunters at the same time;
558 and

559 (3) The mentor shall remain within an arm's grasp of each youth hunter at all
560 times.

561 (e) In order to be eligible to be a mentor, the person shall:

562 (1) Be at least eighteen (18) years old;

563 (2) Have a valid license and any required permits; and

564 (3) Be the youth hunter's parent or legal guardian or have permission from the
565 hunter's parent or legal guardian to be the hunter's mentor.

566 406.9-6. *Deer Hunting Parties.* A deer hunting party consists of a minimum of two (2) people
567 and may be limited in size as provided in the rules developed pursuant to this law. Any member
568 of a deer hunting party may harvest deer on behalf of another member of the deer hunting party
569 under the following circumstances:

570 (a) At the time and place of the harvest, the member of the hunting party who harvests
571 the deer shall be in contact with the member of the hunting party on whose behalf the
572 deer was harvested. For the purpose of this section, contact means visual or voice contact
573 without the aid of any mechanical or electronic amplifying device other than a hearing
574 aid. Hand radios are permitted, however may not be used as an acceptable means of
575 contact as required in this section.

576 (b) The member of the hunting party for whom the deer was harvested shall possess a
577 valid, license and carcass tag for the deer.

578 (c) The member of the hunting party who harvests the deer shall ensure that a valid
579 carcass tag is attached to the deer by a member of the hunting party prior to field dressing
580 and moving the deer; the member of the hunting party that harvests the deer may not
581 leave said deer unattended until it has been properly tagged.
582

² Requirements for descendency are determined by the Oneida Trust Enrollment Committee.

³ See footnote 2.

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583 **406.10. Enforcement and Penalties**

584 406.10-1. *Reporting Violations.* All persons shall report any violation(s) of this law and/or the
585 corresponding rules to the Department or the Oneida Police Department. The department
586 receiving information regarding violations shall keep the information confidential.

587 406.10-2. *Licenses/Permits Suspension, Revocation and/or Ineligibility.* The Department may
588 suspend, revoke or deem a party ineligible for a license or permit as a penalty for committing any
589 one (1) of the following acts or any combination thereof:

590 (a) Has committed an act causing any of his or hers hunting, fishing or trapping licenses,
591 permits or privileges to be suspended or revoked by any other jurisdiction, whether it be
592 tribal, state or federal, where, for the purposes of this section, a person's right to possess
593 firearms is considered a hunting privilege;

594 (b) Provides false information, or assists other in providing false information, when
595 applying for a license or permit;

596 (c) Fails to timely pay a fine or abide by a penalty assessed against him or her as a
597 consequence for violating the provisions of this law and/or the corresponding rules;
598 and/or

599 (d) Violates this law and/or the corresponding rules and the violation is one for which the
600 citation schedule identifies suspension, revocation, or ineligibility of a license or permit
601 as an available penalty.

602 406.10-3. *Warning and Citations.* Department wardens may issue verbal and/or written
603 warnings and/or citations to any person found to be in violation of this law and/or the
604 corresponding rules. The Department shall ensure that all warning and citations identify the
605 relevant violation and, if applicable, the fine and/or penalties imposed as a consequence of the
606 violation.

607 406.10-4. *Appeal of License and/or Permit Decision.* Any person wishing to contest a decision
608 of the Department related to a license and/or permit may appeal such action by ~~requesting a~~
609 ~~hearing before ERB.~~ filing a complaint with the Judiciary Trial Court naming the Department.

610 ~~(a) In order to be considered timely, the person contesting an action of the Department~~
611 ~~shall file the appeal within ten (10) business days of the date of the Department's action.~~
612 ~~ERB may not hear appeals that are not timely filed.~~

613 ~~(b) ERB shall schedule a hearing for all timely filed appeal, and shall ensure that such~~
614 ~~hearings are held within thirty (30) calendar days from the date the appeal was filed.~~

615 ~~(c) ERB shall conduct hearings in accordance with its bylaws and any other applicable~~
616 ~~regulations, standard operating procedures, rules, laws or policies governing the Nation's~~
617 ~~administrative hearings.~~

618 ~~(d) ERB's determination related to a license and/or permit is final; no further review is~~
619 ~~available.~~

620 406.10-5. *Contested Action Hearings.* All citations, orders and declarations issued pursuant to
621 this law shall include a ~~prehearing date~~ pre-hearing date with the Judiciary Trial Court which
622 shall be set for the next scheduled monthly prehearing date that is at least thirty (30) ~~calendar~~
623 days after the citation was issued. Persons wishing to contest a citation shall appear at the
624 prehearing, at which time the ~~Environmental Resource Board~~ Judiciary Trial Court shall accept
625 pleas which either contest or admit committing the act for which the citation was issued. ~~For~~ The
626 Judiciary shall schedule a hearing as expeditiously as possible, provided that it shall be
627 scheduled within ninety (90) days of the date of the prehearing, for all persons entering a plea
628 contesting the fact that they committed the act for which a citation was issued, ~~ERB shall~~

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629 ~~schedule a hearing as expeditiously as possible, provided that ERB shall schedule all hearings~~
 630 ~~within ninety (90) days of the date of the prehearing.~~ In addition to scheduling requested
 631 hearings, ~~ERB~~the Judiciary may also make conditional orders at the prehearing which are
 632 effective until the matter is resolved.

633 (a) ~~ERB shall conduct prehearings and hearings in accordance with its bylaws and any~~
 634 ~~other applicable regulations, standard operating procedures, rules, laws or policies~~
 635 ~~governing the Nation's administrative hearings.~~

636 ~~(b) Community Service.~~ Community service may be substituted for fines at ~~ERB's~~the
 637 Judiciary's discretion, provided that, if so substituted, ~~ERB~~the Judiciary shall use the rate
 638 of one (1) hour per ten dollars (\$10.00) of the fine.

639 ~~(e) (b) Allocation of Citation Revenue.~~ All fines and penalties issued by citations are
 640 payable to ERB or its designee, the proceeds of which ERB shall contribute to the
 641 Nation's general fund.

642 ~~(d) (c) Appealing the Decision of the Judiciary Trial Court.~~ Any person wishing to
 643 contest the determination of the Judiciary Trial Court may appeal the applicable
 644 determination to the Judiciary's Court of Appeals in accordance with the Rules of
 645 Appellate Procedure.

646 (d) Pursuing Payment of a Citation. ERB may pursue payment from parties who have
 647 failed to make the required payments through the garnishment process contained in the
 648 Garnishment law and/or by attaching a Tribal member's per capita payment pursuant to
 649 the Per Capita law.

650 ~~(e) Any person wishing to contest ERB's determination related to a contested citation~~
 651 ~~may appeal the applicable determination to the Judiciary's Court of Appeals in~~
 652 ~~accordance with the Rules of Appellate Procedure.~~

653
 654 *End.*

655

Adopted - BC-8-31-94-C
 Adopted - BC-4-24-96-A
 Adopted - BC-07-22-98-A
 Amended - BC-09-13-00-D
 Amended - BC-6-04-03-A
 Amended - BC-6-30-04-I
 Amended - BC-7-13-05-E
 Amended - BC-8-29-07-F
 Amended - BC-06-24-09-E
 Amended - BC-08-26-10-I
 Emergency Amended - BC-06-22-11-H (Expired)
 Amended - BC-12-14-11-E
 Amended - BC-05-22-13-A
 Amended - BC-01-25-17-D

FINANCE ADMINISTRATION
Fiscal Impact Statement



MEMORANDUM

DATE: June 7, 2017

FROM: Rae Skenandore, Project Manager

TO: Larry Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer

RE: **Fiscal Impact of the transfer of the Environmental Resource Board's Hearing Authority to the Oneida Judiciary**

I. Estimated Fiscal Impact Summary

Law: Domestic Animal Hunting, Fishing and Trapping law (HTF) Public Use of Tribal Land (Public Use) Tribal Environmental Response (TERP) Well Abandonment Law (Well Abandonment) All-Terrain Vehicle Law (ATV) Water Resources Ordinance (Water Resources) On-Site Waste Disposal Ordinance (Waste Disposal)	Draft 19 Draft 2 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1
Implementing Agency	Oneida Police Department (OPD) Conservation Environmental Resource Board (ERB) Emergency Management Environmental Health and Safety Division Comprehensive Health Division Oneida Judiciary
Estimated time to comply	January 1, 2018
Estimated Impact	Current Fiscal Year 10 Year Estimate
ERB stipend savings	\$830 \$8,300
Total Estimated Savings	\$830 \$8,300
Revenue and cost considerations	Fee Schedules should be removed from the various Laws
Uncertainties and Unknowns	None

II. Background

A. Legislative History

The Oneida Business Committee created the Environmental Resource Board through Resolution BC-02-22-85-B. GTC Resolution 01-07-13-B established the Oneida Judiciary.

B. Summary of Content

1. The Domestic Animal amendments are being processed separately in order to make further revisions. However, it is included here because there are no additional fiscal impacts due to the amendments.
2. All Laws are being amended to state that the Trial Court is the entity authorized to conduct hearings.
3. Other minor changes, including formatting, have been made to these Laws to comply with drafting style. These changes do not affect the content of these Laws.

C. Methodology and Assumptions

1. A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.
2. Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.
3. The analysis was completed based on the information provided as of the date of this memo.

III. Agency

The hearing authority will simply be transferred from ERB to the Judiciary. Historical hearing stipends paid to the Board were \$750 in 2017, \$1,200 in 2016, and \$700 in 2015. Transferring the hearing authority to the Judiciary would result in an average savings of approximately \$830 annually. The Judiciary does not anticipate any additional costs as this will simply be absorbed into their existing duties. ERB has stated that they expect the transition of the hearing authority to be complete by January 1, 2018

IV. Financial Impact

Approximately \$830 savings annually.

V. Recommendation

Finance does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Consider adoption of amendments to the Water Resources Ordinance

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="Adoption packet"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jennifer Falck, LRO Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chairperson 
DATE: July 26, 2017
RE: Water Resources Ordinance Amendments

Please find the following attached backup documentation for your consideration of the Water Resources Ordinance Amendments:

1. Resolution: Water Resources Ordinance Amendments
2. Statement of Effect: Water Resources Ordinance Amendments
3. Water Resources Ordinance Amendments: Legislative Analysis
4. Water Resources Ordinance Amendments: Clean Draft
5. Water Resources Ordinance Amendments: Redline to Current Draft
6. Water Resources Ordinance Amendments: Fiscal Impact Statement

Overview

This resolution adopts amendments to the Water Resources Ordinance to transfer the Environmental Resource Board's hearing authority to the Judiciary.

In accordance with the Legislative Procedures Act, a public meeting was held regarding this law on June 15, 2017 with a comment period closing on June 29, 2017. There were no comments provided. These amendments will become effective beginning in the new fiscal year on October 1, 2017.

Requested Action

Approve the Resolution: Water Resources Ordinance Amendments

BC Resolution _____*Water Resources Ordinance Amendments*

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WHEREAS, the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, the Oneida Business Committee originally adopted the Water Resources Ordinance through resolution BC-05-08-96-B; and

WHEREAS, the Amendments to the Ordinance transfer the Environment Resource Board's original hearing body authority and responsibilities to the Oneida Judiciary as part of an effort to standardize and streamline all of the Nation's hearing responsibilities; and

WHEREAS, a public meeting on the proposed Amendments was held on June 15, 2017 in accordance with the Legislative Procedures Act; and

NOW THEREFORE BE IT RESOLVED, that the Water Resources Ordinance Amendments are hereby adopted and shall become effective on October 1, 2017.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



Statement of Effect

Water Resource Ordinance Amendments

Summary

This Resolution adopts Amendments to the Water Resource Ordinance Amendments (the “Law”) which transfer the Environmental Resource Board’s original hearing body authority to the Oneida Judiciary.

Submitted by: Krystal L. John, Staff Attorney, Oneida Law Office

Analysis by the Legislative Reference Office

As stated above, these amendments will transfer the delegation of original hearing body authority from the Environmental Resource Board to the Oneida Judiciary. Such a transfer would implicate the Judiciary law and the Environmental Resource Board’s by-laws.

The transfer of hearing body authority would fit into the Oneida Judiciary’s subject matter jurisdiction according to the Judiciary law based on section 801.5-2, which provides that, “The Trial Court shall have subject matter jurisdiction over cases and controversies arising under the following... (a) Tribal laws which specifically authorize the Trial Court to exercise jurisdiction...” *Judiciary*, 8 O.C. 801 § 801.5-2. These amendments to the Law specifically authorize the Trial Court to exercise jurisdiction based on section 409.6-5. *Contested Action Hearings*, which reads as follows:

All citations, penalties, orders and declarations issued pursuant to this law shall include a prehearing date with the Judiciary Trial Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all persons entering a plea contesting the fact that they committed the act for which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also make conditional orders at the prehearing which are effective until the matter is resolved. ...

(c) Appealing the Decision of the Judiciary Trial Court. Any person wishing to contest the determination of the Judiciary Trial Court may appeal to the Judiciary Court of Appeals in accordance with the Rules of Appellate Procedure. ...

The Environmental Resource Board’s by-laws provide the Board’s duties and responsibilities, among other things. Adoption of this law conflicts with the Board’s by-laws and the by-laws recognize the Environmental Resource Board’s original hearing body authority in section 1-4.b., which reads as follows: “The ERB shall serve as the original hearing body in matters concerning environmental and conservation laws and ordinances promulgated by the Oneida Tribe.” Accordingly, if this resolution is adopted, the Environmental Resource Board’s by-laws would need

to be amended to remove the original hearing body authority from the Board's duties and responsibilities.

A public meeting was held for these Amendments on June 15, 2017 for which the public comment period expired on June 22, 2017 in accordance with the Legislative Procedures Act. There were not any oral or written comments submitted.

Conclusion

Adoption of this Resolution would require the Environmental Resource Board's by-laws to be amended to remove the original hearing body authority from the Board's duties and responsibilities.



Hearing Authority Transfer Legislative Analysis

SECTION 1. BACKGROUND

REQUESTER: LOC	SPONSOR: Tehassi Hill	DRAFTER: Krystal L. John	ANALYST: Candice E. Skenandore
Intent of the Amendments	To further utilize the Judiciary.		
Purpose	To transfer the Environmental Resource Board (ERB) hearing authority to the Judiciary.		
Affected Entities	Trial Court, ERB		
Affected Legislation	Hunting, Fishing and Trapping law, Public Use of Tribal Land, Tribal Environmental Response, Well Abandonment Law, All-Terrain Vehicle Law, Water Resources Ordinance		
Enforcement/Due Process	ERB will no longer hold hearings; hearing will now be conducted by the Trial Court in accordance with the Rules of Civil Procedure.		
Public Meeting	A public meeting was held on June 15, 2017.		

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A.** Since 1985, ERB served as the hearing body authority over the Nation's environmental regulations.
- 3 On May 2, 1990, the Oneida Business Committee established the Oneida Tribal Judicial System (aka
- 4 Oneida Appeals Commission) and General Tribal Council reauthorized the Oneida Tribal Judicial
- 5 System on August 19, 1991 [*See BC Resolution 05-02-90 and GTC Resolution 8-19-91-A*]. The
- 6 purpose of the Oneida Appeals Commission was to enhance and protect self-governance and
- 7 sovereignty as well as enhance the separation of powers between the legislative, executive and
- 8 juridical responsibilities of the Nation. The Oneida Appeals Commission removed the Oneida
- 9 Business Committee from initial judicial decisions [*See GTC Resolution 8-19-91-A*].
- 10 **B.** In 2013, the General Tribal Council changed the structure of the Oneida Tribal Judicial System by
- 11 creating an Oneida Judiciary comprised of the Tribal Court and a Court of Appeals through the
- 12 adoption of the Judiciary law. The purpose of the Judiciary is to grant the Trial Court and Court of
- 13 Appeals expanded subject matter jurisdiction and create a greater role for the use of mediation and/or
- 14 peacemaking [*See GTC Resolution 01-07-13-B*].
- 15 **C.** These proposed amendments will transfer hearing authority from ERB to the Trial Court. The
- 16 following laws are amended to reflect the transfer of hearing authority:
- 17 ■ Hunting, Fishing and Trapping law (HTF)
 - 18 ■ Public Use of Tribal Land (Public Use)
 - 19 ■ Tribal Environmental Response (TERP)
 - 20 ■ Well Abandonment Law (Well Abandonment)
 - 21 ■ All-Terrain Vehicle Law (ATV)
 - 22 ■ Water Resources Ordinance (Water Resources)
 - 23 ■ On-Site Waste Disposal Ordinance (Waste Disposal)
- 24

SECTION 3. CONSULTATION

26 A. ERB and the Trial Court have been consulted in the development of this legislative analysis.
27

28 **SECTION 4. PROCESS**

29 A. These Laws have followed the process set forth in the Legislative Procedures Act (LPA) except that
30 the public meeting was not properly noticed to all managers or directors. The LPA requires the public
31 meeting notice, legislation, legislative analysis and fiscal impact statement, if fiscal impact statement is
32 available, to be electronically provided to all managers or directors a minimum of ten business days
33 before a public meeting is held [*See Legislative Procedures Act, 1 O.C. 109.8-2 (b)*]. The notice and
34 backup documents were provided electronically to all managers or directors on Tuesday, June 13, 2017;
35 the public meeting was held Thursday, June 15, 2017. The public meeting was properly noticed in the
36 Kalihwisaks and was made public on the Oneida Register at least ten business days prior to the public
37 meeting as required by the LPA [*See Legislative Procedures Act, 1 O.C. 8-2 (a & b)*]. The LOC
38 extended the public comment period for these laws for an additional five business days, ending on
39 Thursday, June 29, 2017.

40 B. A work meeting with ERB was held on Wednesday, May 17, 2017 and a work meeting with ERB and
41 the Judiciary was held on Monday, June 12, 2017.
42

43 **SECTION 5. CONTENTS OF THE LEGISLATION**

44 A. The identified laws in Section 2.C of this analysis have been amended to state that the Trial Court is
45 the entity authorized to conduct hearings.
46

47 **SECTION 6. INTENT**

48 A. The intent of these amendments is to further utilize the Oneida Judiciary. The LOC has already
49 decided to transfer hearing authority from identified entities to the Judiciary. The majority of the
50 Oneida Land Commission's and some of the Trust Enrollments Committee's hearing authority has
51 already transferred to the Judiciary. Because the LOC is currently working on amendments the
52 Domestic Animals law in which ERB has hearing authority, it was decided to amend all laws which
53 grant ERB hearing authority and transfer that authority to the Judiciary.
54

55 **SECTION 7. EFFECT ON EXISTING LEGISLATION**

56 A. These amendments do not conflict with other laws or policies of the Nation.
57

58 **SECTION 8. OTHER CONSIDERATIONS**

59 A. The following table shows the type and approximate number of hearings ERB has held since 2012.
60 Included are hearings that pertain to Domestic Animals violations; however, the Domestic Animal
61 amendments are being processed separately in order to make further revisions. In total, ERB has held
62 approximately 69 hearings since 2012.
63

64

	ATV	HFT	Waste Disposal	Public Use	TERP	Water Resources	Well Abandonment	Domestic Animal	TOTAL
2012	0	1	0	0	0	0	0	1	2
2013	0	5	0	0	0	0	0	0	5
2014	0	14	0	0	0	0	0	3	17
2015	0	0	0	1	0	0	0	6	7
2016	0	11	0	2	0	0	0	19	32
2017	0	2	0	0	0	0	0	4	6
TOTAL	0	33	0	3	0	0	0	33	69

65 **B.** Minor changes, including formatting, have been made to these laws to comply with drafting style.

66 These changes do not affect the content of these laws.

67 **C.** Please refer to the fiscal impact statement for any financial impacts.

68

69 SECTION 9. ADDITIONAL AMENDMENTS

70 **A. *Hunting, Fishing, and Trapping law (Law)*.** In additions to the amendments which transfer ERB's
71 hearing authority to the Judiciary, additional amendments were made to the Hunting, Fishing, and
72 Trapping law. These amendments include revising section 406.4-3 which states that this Law does
73 not negate the jurisdiction of the State of Wisconsin in instances that involve non-member Indians
74 and non-Indians. This means that non-member Indians and non-Indians hunting, fishing and trapping
75 on land owned by the Nation must adhere to the Nation's license, permit and tag requirements but
76 may also be subject to State requirements. In addition, license and permit holders cannot utilize
77 hunting, fishing, or trapping privileges within the Reservation using a State license that would
78 provide greater privileges than those afforded in this Law and any applicable rules [*See Hunting,*
79 *Fishing and Trapping, 4 O.C. 406.4-3*].

80

For OBC Consideration (Draft 1)

2017 07 26 – Clean

Title 4. Environment and Natural Resources – Chapter 409**WATER RESOURCES****Ka'nekalunyuhsé Olihwá'ke***the matters of the different kinds of waters*

409.1. Policy and Purpose
 409.2. Authority
 409.3. Definitions

409.4. Powers and Duties
 409.5. Review
 409.6. Enforcement; Reporting

1
 2
 3

409.1. Policy and Purpose

409.1-1. Pollution of the waters of the Oneida Reservation has aroused widespread public concern. It endangers the health and general welfare of both members and residents of the Oneida Nation. A comprehensive program directed at all present and potential sources of water pollution whether residential, farm, recreational, municipal, industrial or commercial is needed to protect human life and health, fish and aquatic life, scenic, and ecological values and domestic, municipal, recreational, industrial, agricultural, cultural, religious, and other uses of Reservation water resources.

409.1-2. The Oneida Environmental Department (“Department”) shall serve as the central unit of tribal government to protect, maintain and improve the quality and management of the waters of the Oneida Reservation, ground and surface, public and private. The purpose of this law is to grant necessary powers and to organize a comprehensive program under a single tribal department for the enhancement of the quality management and protection of all waters of the Reservation, ground and surface, public and private. To the end that these vital purposes may be accomplished, this law and all rules and orders promulgated under this law shall be liberally construed in favor of the policy objectives set forth in this law.

409.1-3. The Oneida Environmental Resource Board (“Board”) shall serve in an advisory capacity to the Department in the development and administration of the programs contemplated by this law.

409.2. Adoption, Amendment and Repeal

409.2-1. This law was adopted by the [Oneida Business Committee or Oneida General Tribal Council] by resolution BC-5-08-96-B.

409.2-2. This law may be amended or repealed by the [Oneida Business Committee and/or Oneida General Tribal Council] pursuant to the procedures set out in the Legislative Procedures Act.

409.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

409.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

409.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

409.3. Definitions

For OBC Consideration (Draft 1)
2017 07 26 – Clean

38 409.3-1.

39 (a) “Board” shall mean the Oneida Environmental Resource Board.

40 (b) “Department” shall mean the Oneida Environmental Department.

41 (c) “Environmental Pollution” shall mean the contaminating or rendering unclean or
42 impure the air, land or waters of the Reservation, or making the same injurious to public
43 health, harmful for commercial, recreational, cultural or religious use, or deleterious to
44 fish, bird, animal or plant life.

45 (d) “Garbage” means discarded materials resulting from the handling, processing, storage
46 and consumption of food.

47 (e) “Hazardous Substance” shall mean any substance or combination of substances
48 including any waste of a solid, semisolid, liquid or gaseous form which may pose a
49 substantial present or potential hazard to human health or the environment because of its
50 quantity, concentration, or physical, chemical or infectious characteristics. This term
51 includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants,
52 strong sensitizers or explosives, as determined by the Department.

53 (f) “Industrial Waste” shall mean liquid or other wastes resulting from any process of
54 industry, manufacture, trade or business or the development of any natural resource.

55 (g) “Nonpoint Source” means a land management activity which contributes to runoff,
56 seepage or percolation which adversely affects or threatens the quality of waters of the
57 Reservation and which is not a point source as defined in Section 409.3-10.

58 (h) “Other Waste” shall include all other substances, except industrial wastes, which
59 pollute any of the waters of the Reservation. The term also includes siltation resulting
60 from operations such as stripping of lands for development of subdivisions, highways,
61 quarries and gravel pits, mine drainage, cleaning of vehicles or barges or gross neglect of
62 land erosion.

63 (i) “Person” means an individual, owner, operator, corporation chartered under federal,
64 state or tribal law, limited liability company, partnership, association, municipality,
65 township, interstate agency, tribal agency, county agency, state agency, or federal
66 agency.

67 (j) “Point Source” means a discernable, confined and discrete conveyance, including but
68 not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container,
69 rolling stock, concentrated animal feeding operation, or vessel or other floating craft from
70 which pollutants may be discharged into waters of the Reservation. “Point Source”
71 specifically includes any discernible, confined and discrete conveyance of storm water.

72 (k) “Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash,
73 sewage, garbage, sewerage sludge, munitions, chemical wastes, biological materials,
74 radioactive materials (except those regulated under the Atomic Energy Act of 1954 as
75 amended (42 U.S.C 2011 et. seq.)) heat, wrecked or discarded equipment, rock, sand,
76 cellar dirt, and industrial, municipal and agricultural waste discharged into the waters of
77 the Reservation, including discharges of storm water that result in deleterious alterations
78 of the hydrology and morphology of waters of the Reservation.

79 (l) “Pollution” means contaminating or rendering unclean or impure the waters of the
80 Reservation by the introduction to those waters of one or more pollutants as defined in

For OBC Consideration (Draft 1)

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81 Section 409.3-11, or otherwise making the waters of the Reservation injurious to public
82 health, harmful for any of the uses described in Section 409.1-1, or deleterious to fish,
83 bird, animal or plant life. The term “Pollution” shall include deleterious alterations to the
84 hydrologic or morphologic characteristics of the waters of the Reservation.

85 (m) “Refuse” means all matters produced from industrial or community life, subject to
86 decomposition, not defined as sewage.

87 (n) “Reservation” shall mean the Oneida Indian Reservation as established by the Treaty
88 of 1838, 7 Stat. 566.

89 (o) “Solid Waste” shall mean any garbage, refuse, sludge from a waste treatment plant,
90 water supply treatment plant or air pollution control facility and other discarded or
91 salvageable materials, including solid, liquid, semisolid, or contained gaseous materials
92 resulting from industrial, commercial, mining and agricultural operations, and from
93 community activities, but does not include solids or dissolved material in domestic
94 sewage, or solid or dissolved materials in irrigation return flows or industrial discharges
95 which are point sources subject to permits under the Federal Water Pollution Control Act,
96 33 U.S.C. 1251 et. seq.

97 (p) “State” shall mean the State of Wisconsin.

98 (q) “Storm Water” means any discharge, whether discreet or from sheet flow resulting
99 from the movement of water across the surface of land including storm water runoff,
100 snow melt runoff, surface runoff, and drainage.

101 (r) “Nation” shall mean the Oneida Nation.

102 (s) “Water Supply” means the sources and their surroundings from which water is
103 supplied for drinking and domestic purposes.

104 (t) “Waters of the Reservation” means any accumulation of water, surface and
105 underground, natural and artificial, public and private, or parts thereof which are wholly
106 or partially within, flow through, or border upon the Oneida Reservation. “Waters of the
107 Reservation” includes wetlands, as that term is defined in Section 409.3-21, below.

108 (u) “Wetlands” means land that has a predominance of hydric soils, is inundated or
109 saturated by surface or ground water at a frequency and duration to support, and under
110 normal circumstances does support, a prevalence or hydrophytic vegetation typically
111 adapted for life in saturated soil conditions. “Normal circumstances” refers to the soil and
112 hydrologic conditions that are normally present, without regard to whether the vegetation
113 has been removed.

114 115 **409.4. Powers and Duties**

116 409.4-1. The Department shall have general supervisory authority over the waters of the
117 Reservation. It shall carry out and coordinate the planning, management and regulatory programs
118 necessary for implementing the policy and purpose of this chapter. The Department also shall
119 formulate plans and programs for the prevention and abatement of water pollution and for the
120 maintenance and improvement of water quality.

121 409.4-2. Water Quality Standards

122 (a) The Department shall set standards of water quality to be applicable to the waters of
123 the Reservation, recognizing that different standards may be required for different waters

For OBC Consideration (Draft 1)

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124 or portions thereof. Water quality standards shall consist of the designated uses of the
125 waters or portions thereof, antidegradation standards, and the water quality criteria for
126 those waters based upon their designated uses. Water quality standards shall protect the
127 public interest, which includes the protection of:

- 128 (1) the public health and welfare;
- 129 (2) the present and prospective future use of such waters for public and private
130 water supplies;
- 131 (3) the propagation of fish, aquatic life and wildlife;
- 132 (4) domestic and recreational purposes; and
- 133 (5) agricultural, cultural, religious, commercial, industrial and other legitimate
134 uses.

135 (b) In adopting or revising any water quality criteria for the waters of the Reservation or
136 any designated portion thereof, the Department shall do all the following:

- 137 (1) From time to time, but at least once every three (3) years, review water quality
138 standards, and publish and provide public notice of water quality criteria to be
139 adopted, revised or reviewed in the following three year(s).
- 140 (2) Establish criteria sufficient to protect any and all applicable designated uses.
141 Such criteria must contain sufficient parameters or constituents to protect each
142 designated use. For waters with multiple designations, the criteria shall support
143 the most sensitive use.
- 144 (3) Employ reasonable statistical techniques, where appropriate, in interpreting
145 the relevant water quality data.

146 (c) Form of Criteria: In establishing criteria, the Department shall

- 147 (1) Establish numeric values based on:
 - 148 (A) 40 C.F.R. 132, Water Quality Guidance for the Great Lakes System;
 - 149 and
 - 150 (B) Other scientifically defensible methods.
- 151 (2) Establish narrative criteria or criteria based upon biomonitoring methods
152 and/or hydrologic or morphologic assessments where numerical criteria cannot be
153 established, or to supplement numerical criteria.

154 409.4-3. The Department shall be responsible for the application, processing, and review of
155 tribal water quality certifications required by Section 401 of the Federal Water Pollution Control
156 Act, 33 USC § 1341.

157 409.4-4. The Department may issue general orders applicable throughout the Reservation for
158 the construction, installation, use and operation of practicable and available systems, methods
159 and means for preventing and abating pollution of the waters of the Oneida Reservation. Such
160 general orders and rules shall be issued only after an opportunity to be heard thereon has been
161 afforded to interested parties by means of a public hearing. The Department shall, when
162 appropriate, consult with other tribal departments and entities having particular expertise in the
163 subject matter of the order.

164 409.4-5. Special/Emergency Orders

- 165 (a) The Department may issue special orders directing particular persons to secure such
166 operating results toward the control of pollution of the waters of the Reservation as the

For OBC Consideration (Draft 1)

2017 07 26 – Clean

167 Department prescribes, within a specified time. Pending efforts to comply with any order,
168 the Department may permit continuance of operations on such conditions as it prescribes.
169 If any person cannot comply with an order within the time specified, the person may,
170 before the date set in the order, petition the Department to modify the order. The
171 Department may modify the order, specifying in writing the reasons therefor. If any order
172 is not complied with within the time period specified, the Department shall forthwith
173 commence an action to enforce compliance with said order.

174 (b) The Department may issue temporary emergency orders without prior public hearing
175 when the Department determines that the protection of the waters of the Reservation
176 necessitates such immediate action. Such emergency orders shall take effect at such time
177 as the Department determines. As soon as is practicable, the Department shall schedule a
178 public hearing after which it may modify or rescind the temporary emergency order or
179 issue a special order under Section 409.4-5(a).

180 409.4-6. The Department shall make investigations and inspections to insure compliance with
181 any general or special order or rule which it issues.

182 409.4-7. The Department may enter into agreements with the responsible authorities of the
183 state or any of its political subdivisions, subject to approval by the Board and the Oneida
184 Business Committee, relative to methods, means and measures to be employed to control
185 pollution of any inter-jurisdiction streams and other waters and to carry out such agreement by
186 appropriate general and special orders. This power shall not be deemed to extend to the
187 modification of any agreement with the state or any political subdivision thereof concluded by
188 direct legislative act of the Oneida Business Committee or the Oneida General Tribal Council.

189 409.4-8. The Department may order or cause the abatement of any nuisance affecting the
190 waters of the Oneida Reservation.

191 409.4-9. In cases of noncompliance with any order issued by the Department, the Department
192 may take the action directed by the order, and collect the costs thereof from the person to whom
193 the order was directed by seeking a judgment for money from the Oneida Judiciary. The
194 Department shall have all the necessary powers needed to carry out this paragraph including
195 powers granted by the Constitution of the Oneida Nation, and any and all delegations of
196 authority under federal environmental laws.

197 409.4-10. The Department may, upon receipt of the appropriate delegation of federal authority,
198 establish, administer and maintain a safe drinking water program no less stringent than the
199 requirements of the Safe Drinking Water Act of 1974, P.L. 93-523, 88 Stat. 1660. (42 USC 300f
200 et. seq).

201 409.4-11. The Department, subject to the approval of the Oneida Business Committee, may
202 designate priority watersheds and priority lakes where the need for non-point source water
203 pollution abatement and/or hydrologic or morphologic restoration is the most critical. The Duck-
204 Apple-Ashwaubenon Creeks watershed is hereby designated by the Nation as a priority
205 watershed.

206 409.4-12. The Department may order or cause the abatement of pollution of waters of the
207 Reservation which the Department has determined to be significant and caused by a nonpoint
208 source, as defined in Section 409.3-7, including pollution which causes the violation of a water
209 quality standard, pollution which generally impairs the aquatic habitat or organisms, pollution

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210 which restricts navigation due to sedimentation, pollution which is deleterious to human health,
211 pollution which interferes with cultural or religious uses of waters of the Reservation, or
212 pollution which otherwise significantly impairs water quality. Any and all orders of the
213 Department issued under this Section shall be consistent with the goals and objectives of the
214 Duck-Apple-Ashwaubenon Creeks Priority Watershed Project or such other priority watershed
215 projects as may be designated under Section 409.4-11. Participation by a person in a designated
216 priority watershed project and the compliance by that person with any and all criteria established
217 by said priority watershed project shall entitle the person to a rebuttable presumption of
218 compliance with the requirements of this Section.

219

220 **409.5. Review**

221 409.5-1. Any person in interest may secure a review of the necessity for and reasonableness of
222 any order of the Department under this law in the following manner:

223 (a) They shall first file with the Department a verified petition setting forth specifically
224 the modification or change desired in such order. Such petition must be filled within 60
225 days of the issuance of the orders sought to be reviewed. Upon receipt of such a petition
226 the Department shall schedule a public hearing before the Board thereon and make such
227 further investigations as it shall deem advisable. Pending such review and hearing, the
228 Board may suspend such orders under terms and conditions to be fixed by the
229 Department on application of any such petitioner. The Board shall affirm, repeal or
230 change the order in question within 60 days after the close of the hearing on the petition.

231 (b) The determination of the Board shall be subject to review as provided in the Oneida
232 Administrative Procedure Act.

233

234 **409.6. Enforcement; Reporting; Penalties**

235 409.6-1.

236 (a) The Department shall require that all persons discharging any substance to waters of
237 the Reservation requiring a permit under the Federal Water Pollution Control Act, 33
238 U.S.C. 1251, et seq., report the manner used, amount used and amount discharged to the
239 waters of the Reservation for each substance. The Department may verify reports
240 received by field monitoring of any discharge.

241 (b) The Department may establish minimum effluent volumes for which reports are
242 required under this Section.

243 (c) Wastewater Discharge Environmental Fee: Beginning in 1997, there is established a
244 Wastewater Discharge Environmental Fee. This fee shall be paid by each person required
245 by Section 409.6-1 to report a discharge. In 1997, the fee under this Section shall be based
246 on an administrative fee of \$ _____ plus an additional fee, to be set by the Department
247 by rule and to be based on the concentration or quantity or both of pollutants discharged.

248 (d) Violators of the reporting requirement established under Section 409.6-1 shall forfeit
249 not less than \$100 nor more than \$5,000 for each offense. Each day of continued
250 violation is a separate offense.

251 409.6-2. Environmental Pollution: Hearings; Procedure; Review. The Board shall hold a
252 public hearing relating to alleged or potential environmental pollution upon the filing of a

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253 complaint by the Department. The Department shall serve a copy of the complaint and notice of
254 the hearing upon the alleged or potential polluter either personally or by registered mail directed
255 to the last-known post office address at least twenty (20) days prior to the time set for the
256 hearing. The hearing shall be held not later than ninety (90) days after the filing of the complaint.
257 The respondent shall file a verified answer to the complaint with the Department not later than
258 five (5) days prior to the date set for the hearing, unless the time for answering is extended by the
259 Board for cause shown. For purposes of any hearing under this Section, the Board may issue
260 subpoenas and administer oaths. Within ninety (90) days after the closing of the hearing, the
261 Board shall make and file its findings of fact and conclusions of law and order, which shall be
262 subject to review under the Oneida Administrative Procedures Act. If the Board determines that
263 any complaint was filed maliciously or in bad faith it shall issue a finding to that effect and the
264 person complained against shall be entitled to recover from the Department the reasonable
265 expenses of the hearing, including attorney's fees. Any situation, project or activity which upon
266 continuance or implementation would cause, by a preponderance of the evidence, a degree of
267 pollution that normally would require clean-up action if it already existed, shall be considered
268 potential environmental pollution.

269 409.6-3. Enforcement. The Oneida Conservation Department shall enforce this law, and all
270 rules and orders issued by the Department.

271 409.6-4. Penalties. Any person who violates this law, or any rule promulgated or any regular,
272 special or emergency order issued under this law, shall forfeit not less than one hundred dollars
273 (\$100) or more than five thousand dollars (\$5,000) for each violation. Each day of continued
274 violation is a separate offense.

275 409.6-5. Contested Action Hearings. All citations, penalties, orders and declarations issued
276 pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which shall be
277 set for the next scheduled monthly prehearing date that is at least thirty (30) days after the
278 citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which
279 time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act
280 for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as
281 possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing,
282 for all persons entering a plea contesting the fact that they committed the act for which a citation
283 was issued. In addition to scheduling requested hearings, the Judiciary may also make
284 conditional orders at the prehearing which are effective until the matter is resolved.

285 (a) Community Service. Community service may be substituted for fines at the
286 Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of
287 one (1) hour per ten dollars (\$10.00) of the fine.

288 (b) Allocation of Citation Revenue. All fines and penalties issued by citations are
289 payable to ERB or its designee, the proceeds of which ERB shall contribute to the
290 Nation's general fund.

291 (c) Appealing the Decision of the Judiciary Trial Court. Any person wishing to contest
292 the determination of the Judiciary Trial Court may appeal the applicable determination to
293 the Judiciary's Court of Appeals in accordance with the Rules of Appellate Procedure.

294 (d) Pursuing Payment of a Citation. The Environmental Resource Board may pursue
295 payment from parties who have failed to make the required payments through the

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296 garnishment process contained in the Garnishment law and/or by attaching a Tribal
297 member's per capita payment pursuant to the Per Capita law.

~~298~~

300

301 Adopted - BC-5-08-96-B

302 Corrected-2012-10-03

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Title 4. Environment and Natural Resources – Chapter 409

WATER RESOURCES ~~ORDINANCE~~

Ka'nekalunyuhsé Olihwá'ke

the matters of the different kinds of waters

409.1. Policy and Purpose
409.2. Authority
409.3. Definitions

409.4. Powers and Duties
409.5. Review
409.6. Enforcement; Reporting

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3

409.1. ~~Policy and Purpose~~

409.1-1. ~~___~~ Pollution of the waters of the Oneida Reservation has aroused widespread public concern. It endangers the health and general welfare of both members and residents of the Oneida Nation. A comprehensive program directed at all present and potential sources of water pollution whether residential, farm, recreational, municipal, industrial or commercial is needed to protect human life and health, fish and aquatic life, scenic, and ecological values and domestic, municipal, recreational, industrial, agricultural, cultural, religious, and other uses of Reservation water resources.

409.1-2. ~~___~~ The Oneida Environmental Department (“Department”) shall serve as the central unit of tribal government to protect, maintain and improve the quality and management of the waters of the Oneida Reservation, ground and surface, public and private. The purpose of this ~~Ordinance~~law is to grant necessary powers and to organize a comprehensive program under a single tribal department for the enhancement of the quality management and protection of all waters of the Reservation, ground and surface, public and private. To the end that these vital purposes may be accomplished, this ~~Ordinance~~law and all rules and orders promulgated under this ~~Ordinance~~law shall be liberally construed in favor of the policy objectives set forth in this ~~Ordinance~~law.

409.1-3. The Oneida Environmental Resource Board (“Board”) shall serve in an advisory capacity to the Department in the development and administration of the programs contemplated by this ~~Ordinance~~. ~~The Board shall serve as the initial hearing body in all matters arising under the terms of this Ordinance or any regulations adopted pursuant to its delegations of authority.~~law.

409.2. ~~Authority~~

~~409.2-1. This Ordinance is adopted pursuant to Article IV, Section 1 (f), and Article IV, Section 2 of the Constitution of the Oneida Tribe of Indians of Wisconsin, the Federal Water Pollution Control Act, 33 USC 1251 et. seq., and the inherent authority of the Oneida Nation to regulate matters affecting the political integrity, economic security, or the health and welfare of the Oneida Nation.~~

~~409.2-2. Adoption, Amendment, and Repeal.~~

~~(a) 409.2-1.~~ This ~~Ordinance~~may be law was adopted by the [Oneida Business Committee or

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38 ~~the Oneida General Tribal Council]~~ by resolution BC-5-08-96-B.

39 ~~409.2-2.(b) This Ordinance law may be amended pursuant to the procedures set forth in the~~
40 ~~Oneida Administrative Procedures Act by the or repealed by the [Oneida Business Committee~~
41 ~~and/or the Oneida General Tribal Council] pursuant to the procedures set out in the Legislative~~
42 ~~Procedures Act.~~

43 ~~(e) 409.2-3.~~ Should a provision of this Ordinance law or the application thereof to any person
44 or ~~circumstance~~circumstances be held ~~to be as~~ invalid, such invalidity shall not affect ~~any~~ other
45 provisions of this law which are considered to have legal force without the invalid portions.

46 409.2-4. In the event of a conflict between a provision of this Ordinance law and a provision of
47 another law, the remainder provisions of which this law shall continue in full force and
48 effect.control.

49 ~~(d) All other Oneida laws, policies, regulations, resolutions, ordinances, and other similar~~
50 ~~actions which are inconsistent with the Ordinance are hereby repealed unless specifically~~
51 ~~reenacted after the passage of this Ordinance. Where related laws purport to regulate the~~
52 ~~same activity, the more stringent shall control.~~

54 409.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

56 **409.3. Definitions**

57 409.3-1.

58 (a) "Board" shall mean the Oneida Environmental Resource Board.

59 (b) "Department" shall mean the Oneida Environmental Department.

60 (c) "Environmental Pollution" shall mean the contaminating or rendering unclean or
61 impure the air, land or waters of the Reservation, or making the same injurious to public
62 health, harmful for commercial, recreational, cultural or religious use, or deleterious to
63 fish, bird, animal or plant life.

64 (d) "Garbage" means discarded materials resulting from the handling, processing, storage
65 and consumption of food.

66 (e) "Hazardous Substance" shall mean any substance or combination of substances
67 including any waste of a solid, semisolid, liquid or gaseous form which may pose a
68 substantial present or potential hazard to human health or the environment because of its
69 quantity, concentration, or physical, chemical or infectious characteristics. This term
70 includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants,
71 strong sensitizers or explosives, as determined by the Department.

72 (f) "Industrial Waste" shall mean liquid or other wastes resulting from any process of
73 industry, manufacture, trade or business or the development of any natural resource.

74 (g) "Nonpoint Source" means a land management activity which contributes to runoff,
75 seepage or percolation which adversely affects or threatens the quality of waters of the
76 Reservation and which is not a point source as defined in Section 409.3-10.

77 (h) "Other Waste" shall include all other substances, except industrial wastes, which
78 pollute any of the waters of the Reservation. The term also includes siltation resulting
79 from operations such as stripping of lands for development of subdivisions, highways,
80 quarries and gravel pits, mine drainage, cleaning of vehicles or barges or gross neglect of

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81 land erosion.

82 (i) "Person" means an individual, owner, operator, corporation chartered under federal,
83 state or tribal law, limited liability company, partnership, association, municipality,
84 township, interstate agency, tribal agency, county agency, state agency, or federal
85 agency.

86 (j) "Point Source" means a discernable, confined and discrete conveyance, including but
87 not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container,
88 rolling stock, concentrated animal feeding operation, or vessel or other floating craft from
89 which pollutants may be discharged into waters of the Reservation. "Point Source"
90 specifically includes any discernible, confined and discrete conveyance of storm water.

91 (k) "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash,
92 sewage, garbage, sewerage sludge, munitions, chemical wastes, biological materials,
93 radioactive materials (except those regulated under the Atomic Energy Act of 1954 as
94 amended (42 U.S.C 2011 et. seq.)) heat, wrecked or discarded equipment, rock, sand,
95 cellar dirt, and industrial, municipal and agricultural waste discharged into the waters of
96 the Reservation, including discharges of storm water that result in deleterious alterations
97 of the hydrology and morphology of waters of the Reservation.

98 (l) "Pollution" means contaminating or rendering unclean or impure the waters of the
99 Reservation by the introduction to those waters of one or more pollutants as defined in
100 Section 409.3-11, or otherwise making the waters of the Reservation injurious to public
101 health, harmful for any of the uses described in Section 409.1-1, or deleterious to fish,
102 bird, animal or plant life. The term "Pollution" shall include deleterious alterations to the
103 hydrologic or morphologic characteristics of the waters of the Reservation.

104 (m) "Refuse" means all matters produced from industrial or community life, subject to
105 decomposition, not defined as sewage.

106 (n) "Reservation" shall mean the Oneida Indian Reservation as established by the Treaty
107 of 1838, 7 Stat. 566.

108 (o) "Solid Waste" shall mean any garbage, refuse, sludge from a waste treatment plant,
109 water supply treatment plant or air pollution control facility and other discarded or
110 salvageable materials, including solid, liquid, semisolid, or contained gaseous materials
111 resulting from industrial, commercial, mining and agricultural operations, and from
112 community activities, but does not include solids or dissolved material in domestic
113 sewage, or solid or dissolved materials in irrigation return flows or industrial discharges
114 which are point sources subject to permits under the Federal Water Pollution Control Act,
115 33 U.S.C. 1251 et. seq.

116 (p) "State" shall mean the State of Wisconsin.

117 (q) "Storm Water" means any discharge, whether discrete or from sheet flow resulting
118 from the movement of water across the surface of land including storm water runoff,
119 snow melt runoff, surface runoff, and drainage.

120 (r) "~~Tribe~~" or "~~Nation~~" shall mean the Oneida ~~Tribe of Indians of Wisconsin~~Nation.

121 (s) "Water Supply" means the sources and their surroundings from which water is
122 supplied for drinking and domestic purposes.

123 (t) "Waters of the Reservation" means any accumulation of water, surface and

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124 underground, natural and artificial, public and private, or parts thereof which are wholly
125 or partially within, flow through, or border upon the Oneida Reservation. "Waters of the
126 Reservation" includes wetlands, as that term is defined in Section 409.3-21, below.

127 (u) "Wetlands" means land that has a predominance of hydric soils, is inundated or
128 saturated by surface or ground water at a frequency and duration to support, and under
129 normal circumstances does support, a prevalence or hydrophytic vegetation typically
130 adapted for life in saturated soil conditions. "Normal circumstances" refers to the soil and
131 hydrologic conditions that are normally present, without regard to whether the vegetation
132 has been removed.

133

134 **409.4. Powers and Duties**

135 409.4-1. The Department shall have general supervisory authority over the waters of the
136 Reservation. It shall carry out and coordinate the planning, management and regulatory programs
137 necessary for implementing the policy and purpose of this chapter. The Department also shall
138 formulate plans and programs for the prevention and abatement of water pollution and for the
139 maintenance and improvement of water quality.

140

141 409.4-2. Water Quality Standards

142 (a) The Department shall set standards of water quality to be applicable to the waters of
143 the Reservation, recognizing that different standards may be required for different waters
144 or portions thereof. Water quality standards shall consist of the designated uses of the
145 waters or portions thereof, antidegradation standards, and the water quality criteria for
146 those waters based upon their designated uses. Water quality standards shall protect the
147 public interest, which includes the protection of:

148

149 (1) the public health and welfare;

150

151 (2) the present and prospective future use of such waters for public and private

152

153 (3) the propagation of fish, aquatic life and wildlife;

154

155 (4) domestic and recreational purposes; and

156

157 (5) agricultural, cultural, religious, commercial, industrial and other legitimate

158

159 uses.

160

161 (b) In adopting or revising any water quality criteria for the waters of the Reservation or

162

163 any designated portion thereof, the Department shall do all the following:

164

165 (1) From time to time, but at least once every three (3) years, review water quality

166

standards, and publish and provide public notice of water quality criteria to be
adopted, revised or reviewed in the following three year(s).

(2) Establish criteria sufficient to protect any and all applicable designated uses.
Such criteria must contain sufficient parameters or constituents to protect each
designated use. For waters with multiple designations, the criteria shall support
the most sensitive use.

(3) Employ reasonable statistical techniques, where appropriate, in interpreting
the relevant water quality data.

(c) Form of Criteria: In establishing criteria, the Department shall

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- 167 (1) Establish numeric values based on:
168 | (A) 40 C.F.R. 132, Water Quality Guidance for the Great Lakes System;
169 | and
170 | (B) Other scientifically defensible methods.
171 (2) Establish narrative criteria or criteria based upon biomonitoring methods
172 and/or hydrologic or morphologic assessments where numerical criteria cannot be
173 established, or to supplement numerical criteria.
- 174 | 409.4-3. __ The Department shall be responsible for the application, processing, and review of
175 tribal water quality certifications required by Section 401 of the Federal Water Pollution Control
176 Act, 33 USC § 1341.
- 177 | 409.4-4. __ The Department may issue general orders applicable throughout the Reservation for
178 the construction, installation, use and operation of practicable and available systems, methods
179 and means for preventing and abating pollution of the waters of the Oneida Reservation. Such
180 general orders and rules shall be issued only after an opportunity to be heard thereon has been
181 | afforded to interested parties: by means of a public hearing. The Department shall, when
182 appropriate, consult with other tribal departments and entities having particular expertise in the
183 subject matter of the order.
- 184 | 409.4-5. __ Special/Emergency Orders
185 (a) The Department may issue special orders directing particular persons to secure such
186 operating results toward the control of pollution of the waters of the Reservation as the
187 Department prescribes, within a specified time. Pending efforts to comply with any order,
188 the Department may permit continuance of operations on such conditions as it prescribes.
189 If any person cannot comply with an order within the time specified, the person may,
190 before the date set in the order, petition the Department to modify the order. The
191 Department may modify the order, specifying in writing the reasons therefor. If any order
192 is not complied with within the time period specified, the Department shall forthwith
193 commence an action to enforce compliance with said order.
- 194 | (b) The Department may issue temporary emergency orders without prior public hearing
195 when the Department determines that the protection of the waters of the Reservation
196 necessitates such immediate action. Such emergency orders shall take effect at such time
197 as the Department determines. As soon as is practicable, the Department shall schedule a
198 public hearing after which it may modify or rescind the temporary emergency order or
199 issue a special order under Section 409.4-5(a).
- 200 | 409.4-6. __ The Department shall make investigations and inspections to insure compliance with
201 any general or special order or rule which it issues.
- 202 | 409.4-7. __ The Department may enter into agreements with the responsible authorities of the
203 state or any of its political subdivisions, subject to approval by the Board and the Oneida
204 Business Committee, relative to methods, means and measures to be employed to control
205 pollution of any inter-jurisdiction streams and other waters and to carry out such agreement by
206 appropriate general and special orders. This power shall not be deemed to extend to the
207 modification of any agreement with the state or any political subdivision thereof concluded by
208 direct legislative act of the Oneida Business Committee or the Oneida General Tribal Council.
- 209 | 409.4-8. __ The Department may order or cause the abatement of any nuisance affecting the

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210 waters of the Oneida Reservation.

211 | 409.4-9. In cases of noncompliance with any order issued by the Department, the Department
212 | may take the action directed by the order, and collect the costs thereof from the person to whom
213 | the order was directed. ~~by seeking a judgment for money from the Oneida Judiciary.~~ The
214 | Department shall have all the necessary powers needed to carry out this paragraph including
215 | powers granted by the Constitution of the Oneida ~~Tribe of Indians of Wisconsin~~Nation, and any
216 | and all delegations of authority under federal environmental laws.

217 | 409.4-10. The Department may, upon receipt of the appropriate delegation of federal authority,
218 | establish, administer and maintain a safe drinking water program no less stringent than the
219 | requirements of the Safe Drinking Water Act of 1974, P.L. 93-523, 88 Stat. 1660. (42 USC 300f
220 | et. seq).

221 | 409.4-11. The Department, subject to the approval of the Oneida Business Committee, may
222 | designate priority watersheds and priority lakes where the need for non-point source water
223 | pollution abatement and/or hydrologic or morphologic restoration is the most critical. The Duck-
224 | Apple-Ashwaubenon Creeks watershed is hereby designated by the Nation as a priority
225 | watershed.

226 | 409.4-12. The Department may order or cause the abatement of pollution of waters of the
227 | Reservation which the Department has determined to be significant and caused by a nonpoint
228 | source, as defined in Section 409.3-7, including pollution which causes the violation of a water
229 | quality standard, pollution which generally impairs the aquatic habitat or organisms, pollution
230 | which restricts navigation due to sedimentation, pollution which is deleterious to human health,
231 | pollution which interferes with cultural or religious uses of waters of the Reservation, or
232 | pollution which otherwise significantly impairs water quality. Any and all orders of the
233 | Department issued under this Section shall be consistent with the goals and objectives of the
234 | Duck-Apple-Ashwaubenon Creeks Priority Watershed Project or such other priority watershed
235 | projects as may be designated under Section 409.4-11. Participation by a person in a designated
236 | priority watershed project and the compliance by that person with any and all criteria established
237 | by said priority watershed project shall entitle the person to a rebuttable presumption of
238 | compliance with the requirements of this Section.

239

240 | **409.5. Review**

241 | 409.5-1. Any person in interest may secure a review of the necessity for and reasonableness of
242 | any order of the Department under this ~~Ordinance~~law in the following manner:

243 | (a) They shall first file with the Department a verified petition setting forth specifically
244 | the modification or change desired in such order. Such petition must be filled within 60
245 | days of the issuance of the orders sought to be reviewed. Upon receipt of such a petition
246 | the Department shall schedule a public hearing before the Board thereon and make such
247 | further investigations as it shall deem advisable. Pending such review and hearing, the
248 | Board may suspend such orders under terms and conditions to be fixed by the
249 | Department on application of any such petitioner. The Board shall affirm, repeal or
250 | change the order in question within 60 days after the close of the hearing on the petition.

251 | (b) The determination of the Board shall be subject to review as provided in the Oneida
252 | Administrative Procedure Act.

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253

254 | **409.6. Enforcement; Reporting; Penalties**

255 | 409.6-1.

256 | (a) The Department shall require that all persons discharging any substance to waters of
257 | the Reservation requiring a permit under the Federal Water Pollution Control Act, 33
258 | U.S.C. 1251, et seq., report the manner used, amount used and amount discharged to the
259 | waters of the Reservation for each substance. The Department may verify reports
260 | received by field monitoring of any discharge.

261 | (b) The Department may establish minimum effluent volumes for which reports are
262 | required under this Section.

263 | (c) Wastewater Discharge Environmental Fee: Beginning in 1997, there is established a
264 | Wastewater Discharge Environmental Fee. This fee shall be paid by each person required
265 | by Section 409.6-1 to report a discharge. In 1997, the fee under this Section shall be based
266 | on an administrative fee of \$_____ plus an additional fee, to be set by the Department
267 | by rule and to be based on the concentration or quantity or both of pollutants discharged.

268 | (d) Violators of the reporting requirement established under Section 409.6-1 shall forfeit
269 | not less than \$100 nor more than \$5,000 for each offense. Each day of continued
270 | violation is a separate offense.

271 | ~~(e) The Department is authorized to request hearings before the Board relating to any~~
272 | ~~aspect of the administration of the system established under Section 409.6-1, and, in~~
273 | ~~connection therewith, may compel the attendance of witnesses and the production of~~
274 | ~~evidence.~~

275 | 409.6-2. Environmental Pollution: Hearings; Procedure; Review. The Board shall hold a
276 | public hearing relating to alleged or potential environmental pollution upon the filing of a
277 | complaint by the Department. The Department shall serve a copy of the complaint and notice of
278 | the hearing upon the alleged or potential polluter either personally or by registered mail directed
279 | to the last-known post office address at least twenty (20) days prior to the time set for the
280 | hearing. The hearing shall be held not later than ninety (90) days after the filing of the complaint.
281 | The respondent shall file a verified answer to the complaint with the Department not later than
282 | five (5) days prior to the date set for the hearing, unless the time for answering is extended by the
283 | Board for cause shown. For purposes of any hearing under this Section, the Board may issue
284 | subpoenas and administer oaths. Within ninety (90) days after the closing of the hearing, the
285 | Board shall make and file its findings of fact and conclusions of law and order, which shall be
286 | subject to review under the Oneida Administrative Procedures Act. If the Board determines that
287 | any complaint was filed maliciously or in bad faith it shall issue a finding to that effect and the
288 | person complained against shall be entitled to recover from the Department the reasonable
289 | expenses of the hearing, including attorney's fees. Any situation, project or activity which upon
290 | continuance or implementation would cause, by a preponderance of the evidence, a degree of
291 | pollution that normally would require clean-up action if it already existed, shall be considered
292 | potential environmental pollution.

293 | 409.6-3. Enforcement. The Oneida Conservation Department shall enforce this Ordinancelaw,
294 | and all rules and orders issued by the Department.

295 | 409.6-4. Penalties. Any person who violates this Ordinancelaw, or any rule promulgated or

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296 | any regular, special or emergency order issued under this ~~Ordinance~~law, shall forfeit not less
297 | than one hundred dollars (\$100) or more than five thousand dollars (\$5,000) for each violation.
298 | Each day of continued violation is a separate offense. ~~While the order is suspended, stayed or~~
299 | ~~enjoined, this penalty will not acerue.~~

300 | ~~4094069.6-5. Oneida Environmental Fund established.~~ Contested Action Hearings. All
301 | citations, penalties, orders and declarations issued pursuant to this law shall include a pre-hearing
302 | date with the Judiciary Trial Court which shall be set for the next scheduled monthly prehearing
303 | date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a
304 | citation shall appear at the prehearing, at which time the Judiciary Trial Court shall accept pleas
305 | which either contest or admit committing the act for which the citation was issued. The Oneida
306 | Environmental Fund is hereby established. Judiciary shall schedule a hearing as expeditiously as
307 | possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing,
308 | for all persons entering a plea contesting the fact that they committed the act for which a citation
309 | was issued. In addition to scheduling requested hearings, the Judiciary may also make
310 | conditional orders at the prehearing which are effective until the matter is resolved.

311 | (a) Community Service. Community service may be substituted for fines at the
312 | Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of
313 | one (1) hour per ten dollars (\$10.00) of the fine.

314 | (b) Allocation of Citation Revenue. All fines and penalties issued by citations are
315 | payable to ERB or its designee, the proceeds of which ERB shall contribute to the
316 | Nation's general fund. Any and all monies collected pursuant to this Ordinance shall be
317 | deposited in the Oneida Environmental Fund. This fund shall be used by the Tribe to
318 | defray the expense of administering this Ordinance, and to fund pilot projects and provide
319 | pollution control and prevention grants to persons at the discretion of the Department,
320 | and subject to the availability of funds.

321 | (c) Appealing the Decision of the Judiciary Trial Court. Any person wishing to contest
322 | the determination of the Judiciary Trial Court may appeal the applicable determination to
323 | the Judiciary's Court of Appeals in accordance with the Rules of Appellate Procedure.

324 | (d) Pursuing Payment of a Citation. The Environmental Resource Board may pursue
325 | payment from parties who have failed to make the required payments through the
326 | garnishment process contained in the Garnishment law and/or by attaching a Tribal
327 | member's per capita payment pursuant to the Per Capita law.

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331 | Adopted - BC-5-08-96-B

332 | Corrected-2012-10-03

FINANCE ADMINISTRATION
Fiscal Impact Statement



MEMORANDUM

DATE: June 7, 2017

FROM: Rae Skenandore, Project Manager

TO: Larry Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer

RE: **Fiscal Impact of the transfer of the Environmental Resource Board's Hearing Authority to the Oneida Judiciary**

I. Estimated Fiscal Impact Summary

Law: Domestic Animal Hunting, Fishing and Trapping law (HTF) Public Use of Tribal Land (Public Use) Tribal Environmental Response (TERP) Well Abandonment Law (Well Abandonment) All-Terrain Vehicle Law (ATV) Water Resources Ordinance (Water Resources) On-Site Waste Disposal Ordinance (Waste Disposal)	Draft 19 Draft 2 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1 Draft 1
Implementing Agency	Oneida Police Department (OPD) Conservation Environmental Resource Board (ERB) Emergency Management Environmental Health and Safety Division Comprehensive Health Division Oneida Judiciary
Estimated time to comply	January 1, 2018
Estimated Impact	Current Fiscal Year 10 Year Estimate
ERB stipend savings	\$830 \$8,300
Total Estimated Savings	\$830 \$8,300
Revenue and cost considerations	Fee Schedules should be removed from the various Laws
Uncertainties and Unknowns	None

II. Background

A. Legislative History

The Oneida Business Committee created the Environmental Resource Board through Resolution BC-02-22-85-B. GTC Resolution 01-07-13-B established the Oneida Judiciary.

B. Summary of Content

1. The Domestic Animal amendments are being processed separately in order to make further revisions. However, it is included here because there are no additional fiscal impacts due to the amendments.
2. All Laws are being amended to state that the Trial Court is the entity authorized to conduct hearings.
3. Other minor changes, including formatting, have been made to these Laws to comply with drafting style. These changes do not affect the content of these Laws.

C. Methodology and Assumptions

1. A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.
2. Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.
3. The analysis was completed based on the information provided as of the date of this memo.

III. Agency

The hearing authority will simply be transferred from ERB to the Judiciary. Historical hearing stipends paid to the Board were \$750 in 2017, \$1,200 in 2016, and \$700 in 2015. Transferring the hearing authority to the Judiciary would result in an average savings of approximately \$830 annually. The Judiciary does not anticipate any additional costs as this will simply be absorbed into their existing duties. ERB has stated that they expect the transition of the hearing authority to be complete by January 1, 2018

IV. Financial Impact

Approximately \$830 savings annually.

V. Recommendation

Finance does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Consider adoption of the Oneida Business Committee Meetings Law

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="Adoption packet"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jennifer Falck
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



TO: Oneida Business Committee
 FROM: Brandon Stevens, LOC Chairperson 
 DATE: July 26, 2017
 RE: Oneida Business Committee Meetings Law

Please find the following attached backup documentation for your consideration of the proposed Oneida Business Committee Meetings law:

1. Resolution: Oneida Business Committee Meetings Law
2. Statement of Effect: Oneida Business Committee Meetings Law
3. Oneida Business Committee Meetings Law Legislative Analysis
4. Oneida Business Committee Meetings Law Draft
5. Oneida Business Committee Meetings Law Fiscal Impact Statement

Overview

This resolution adopts the proposed Oneida Business Committee Meetings law. The proposed Oneida Business Committee Meetings law will identify how the Oneida Business Committee will carry out its responsibilities to conduct the business of the Oneida Nation in a clear and consistent manner while guided by Oneida culture and tradition as delegated to the Oneida Business Committee under the Constitution of the Oneida Nation and by the General Tribal Council.

The proposed Oneida Business Committee Meetings law will:

- Recognize the need for frank and honest discussions in all Oneida Business Committee meetings but sets forth requirements and guidelines for providing public comment and discussing individuals in a respectful and productive manner *[see section 117.5]*;
- Provide that an annual schedule and reporting schedule for Oneida Business Committee meetings be presented each year by the Oneida Nation Secretary *[see section 117.6]*;
- Describe the general characteristics of each section that may be contained in the agenda and discusses which individuals are authorized to present items on the agenda *[see section 117.7]*;
- Describe the responsibilities of Oneida Business Committee meeting attendees in regard to their behavior during meetings, and while recording and photographing the meeting; *[see section 117.8]*;
- Set forth guidelines for the removal of a disorderly or disruptive person from an Oneida Business Committee meeting *[see section 117.9]*; and

- Establish standards for enforcement of the provisions of this Law, and require all members of the Oneida Business Committee to request a point of order to direct compliance with Robert's Rules of Order, requirements set forth in this law or requirements set forth in resolutions or standard operating procedures adopted by the Oneida Business Committee when necessary[*see section 117.10*].

In accordance with the Legislative Procedures Act, a public meeting on the proposed law was held on December 29, 2016, with a comment period closing on January 6, 2017. All comments received during the public comment period were accepted and reviewed by the Legislative Operating Committee on March 1, 2017. A second public meeting on the proposed Law was held on May 18, 2017, with a comment period closing on May 25, 2017. All comments received during the second public comment period were reviewed and accepted by the Legislative Operating Committee on June 7, 2017. Any changes made based on those comments have been incorporated into this draft.

Requested Action

Approve the Resolution: Oneida Business Committee Meetings Law

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # _____
Oneida Business Committee Meetings Law

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WHEREAS, the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, the Oneida Business Committee Meetings law ("the Law) identifies how the Oneida Business Committee will carry out its responsibilities to conduct the business of the Oneida Nation as delegated to the Oneida Business Committee under the Constitution of the Oneida Nation and by the General Tribal Council; and

WHEREAS, the Law intends for the Oneida Business Committee to be clear and consistent in its actions and be guided by the responsibilities grounded in the Oneida culture and the Oneida Nation Constitution; and

WHEREAS, the Law recognizes the need for frank and honest discussions in all Oneida Business Committee meetings but sets forth requirements and guidelines for providing a public comment and the discussion of individuals; and

WHEREAS, the Law provides that an annual schedule and reporting schedule for Oneida Business Committee meetings shall be presented around October of each year by the Oneida Nation Secretary; and

WHEREAS, the Law sets forth the general characteristics of each section that may be contained in the agenda and discusses which individuals are authorized to present items on the agenda; and

WHEREAS, the Law describes the responsibilities of Oneida Business Committee meeting attendees in regard to their behavior during meetings and while recording and photographing the meeting; and

WHEREAS, the Law sets forth guidelines for the removal of a disorderly or disruptive person from an Oneida Business Committee meeting; and

WHEREAS, the Law establishes enforcement, and requires all members of the Oneida Business Committee to request a point of order to direct compliance with Robert's Rules of Order, requirements set forth in this law or requirements set forth in resolutions or standard operating procedures adopted by the Oneida Business Committee when necessary; and

WHEREAS, a first public meeting on the proposed law was held on December 29, 2016, in accordance with the Legislative Procedures Act, and comments received were reviewed and accepted by the Legislative Operating Committee on March 1, 2017.

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WHEREAS, a second public meeting on the proposed law was held on May 18, 2017, in accordance with the Legislative Procedures Act, and comments received were reviewed and accepted by the Legislative Operating Committee on June 7, 2017.

NOW THEREFORE BE IT RESOLVED, that the Oneida Business Committee Meetings law is hereby adopted and shall become effective September 13, 2017.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



Statement of Effect

Oneida Business Committee Meetings Law

Summary

This resolution adopts the Oneida Business Committee Meetings law.

Submitted by: Clorissa N. Santiago, Staff Attorney, Legislative Reference Office

Analysis by the Legislative Reference Office

This resolution adopts the Oneida Business Committee Meetings law which is a new law that identifies how the Oneida Business Committee will carry out its responsibilities to conduct the business of the Oneida Nation in a clear and consistent manner while guided by Oneida culture and tradition as delegated to the Oneida Business Committee under the Constitution of the Oneida Nation and by the General Tribal Council.

The Oneida Business Committee Meetings law:

- Recognizes the need for frank and honest discussions in all Oneida Business Committee meetings but sets forth requirements and guidelines for providing public comment and discussing individuals in a respectful and productive manner;
- Provides that an annual schedule and reporting schedule for Oneida Business Committee meeting be presented each year by the Oneida Nation Secretary;
- Describes the responsibilities of Oneida Business Committee meeting attendees in regard to their behavior during meetings and while recording and photographing the meeting;
- Sets forth guidelines for the removal of a disorderly or disruptive person from an Oneida Business Committee meeting; and
- Establishes standards for enforcement of the provisions of this Law, and requires all members of the Oneida Business Committee to request a point of order to direct compliance with Robert's Rules of Order, requirements set forth in this law or requirements set forth in resolutions or standard operating procedures adopted by the Oneida Business Committee when necessary.

The first public meeting on the proposed Law was held on December 29, 2016, in accordance with the Legislative Procedures Act, and comments received were reviewed and accepted by the Legislative Operating Committee on March 1, 2017. A second public meeting on the proposed Law was held on May 18, 2017, and comments received were reviewed and accepted by the Legislative Operating Committee on June 7, 2017.

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws.



Oneida Business Committee Meetings law

5

<i>Analysis by the Legislative Reference Office</i>					
Title	Oneida Business Committee Meetings (law)				
Sponsor	Brandon Stevens	Drafter	Clorissa N. Santiago	Analyst	Maureen Perkins
Requester & Reason for Request	Brandon Stevens This is a proposal for a new law to govern the structure of the Oneida Business Committee (OBC) Meetings, creating a more efficient process for conducting the Nation's business.				
Purpose	The purpose of this law is to identify how the OBC will carry out its responsibilities. Meetings of the OBC are for the purpose of conducting the business of the Oneida Nation as delegated to the OBC under the Constitution of the Nation.				
Authorized/ Affected Entities	Oneida Business Committee, entities, Oneida Nation membership, Oneida Nation employees				
Related Legislation	BC resolution # 08-14-91-A (BC Meeting – Executive Session for Employee Complaints), Open Records and Open Meetings law				
Enforcement & Due Process	This law is enforced by the OBC Chairperson, an OBC Officer or an OBC Member according to Robert's Rules of Order as amended by the Constitution or the OBC [see 117.10].				
Public Meeting Status	A public meeting was held December 29, 2016. A second public meeting was held May 18, 2017 and all comments were considered; the final draft includes changes made by the Legislative Operating Committee based on public comments received.				

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Overview

8 This is a new law that will govern Oneida Business Committee (OBC) meetings and
9 provides a new format to facilitate more effective meetings. The law sets parameters for OBC
10 meetings regarding:

- 11 ▪ the discussion of individuals,
- 12 ▪ public comments,
- 13 ▪ annual OBC scheduling and reporting schedule,
- 14 ▪ the OBC agenda,
- 15 ▪ requests to present agenda items,
- 16 ▪ appointment of a sergeant-at-arms,
- 17 ▪ conduct of OBC meeting attendees,
- 18 ▪ removal of disorderly or disruptive persons, and
- 19 ▪ enforcement of this law.

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Body of the Analysis

22 Rules of Order

23 This section details the rules that govern OBC meetings. Major aspects include:

- 24 ▪ Roberts Rules of Order

- 25 ○ OBC meetings are guided by Robert’s Rules of Order; except as modified by the
26 Oneida Constitution *[see 117.4-1]* or the OBC *[see 117.4-2]*.
- 27 ▪ Discussion of Individuals
- 28 ○ Negative or disrespectful discussion of individual members of the Nation or
29 employees that implicates their integrity, honesty, or morality is prohibited during
30 any OBC meeting and shall be immediately stopped. The presiding Chairperson
31 shall regulate the discussion to ensure the integrity, honesty and morality of
32 individuals is not implicated during any discussions *[see 117.5-1(c)]*. The OBC
33 shall have the authority to redact any statements made during open session
34 regarding improper discussion of an individual from all video and audio
35 recordings of the OBC meetings *[see 117.5-1(d)]*.
- 36 ▪ Public Comment
- 37 ○ A public comment period has been included at the beginning of each agenda item
38 of the OBC meeting in order to provide the public with an opportunity for
39 meaningful community input. Each individual is limited to speak once per agenda
40 item for a maximum of three minutes. This time limitation may be extended by
41 the OBC *[see 117.5-2(b)]*. The public comment period provides an opportunity
42 for the community to request OBC review of an issue or action, comment on an
43 item on the agenda, provide praise, provide public notice about an activity or
44 fundraising event, or other comments deemed pertinent by the presiding
45 Chairperson *[see 117.5-2(e)]*. There are no requirements to accept or take action
46 on public comments. OBC meeting attendees may ask questions while providing
47 public comment and OBC meeting attendees may answer questions posed during
48 this time *[see 117.5-2(d)]*. The OBC shall proceed with official business related to
49 the agenda item once all public comments have been received *[see 117.5-2(f)]*.

50 OBC Meeting Schedule

51 Detail regarding a meeting schedule and a reporting schedule are included in this law.

- 52 ▪ proposed yearly schedule of OBC meetings around October of each year adopted
53 by OBC resolution *[see 117.6-1]*.
- 54 ▪ proposed reporting schedule for Tribal entities around October of each year
55 adopted by OBC resolution *[see 117.6-2]*.

56 57 Agenda

- 58 ▪ The required sections of the OBC agenda and general characteristics of each
59 section are detailed *[see 117.7-1]*.
- 60 ▪ Detail regarding individuals and entities authorized to submit requests to present
61 agenda *[see 117.7-2]*.

62 63 Responsibilities of OBC meeting attendees

- 64 ▪ OBC meeting attendees are expected to treat each other with respect and
65 kindness. A list of prohibited behaviors is detailed *[see 117.8-1]*.
- 66 ▪ This law compliments the Open Records and Open Meetings law with the
67 provision regarding video and audio recording *[see 117.8-2]*.

- 68 ○ The law states that attendees who wish to video and audio record an OBC
69 meeting are required to operate the recording device openly so that the
70 recording obvious to those in attendance *[see 117.8-2(a)]*.
71 ○ Additionally, the recording device cannot create excessive noise or light
72 that disturbs meeting attendees *[see 117.8-2(b)]*. And the recording does
73 not interfere with an individual's observation or participation in the
74 meeting *[see 117.8-2(c)]*.
75

76 Removal of a Disorderly or Disruptive Person

- 77 ▪ The presiding Chairperson may designate a sergeant-at-arms to oversee the
78 security of OBC meetings *[see 117.9-1]*.
79 ▪ The OBC has the authority to direct the removal of OBC meeting attendees who
80 violate this law and this decision is not appealable *[see 117.9-2]*.
81 ▪ Meeting attendees that interrupt a meeting or violate section 117.5-1 by
82 discussing individuals or commit a prohibited behavior *[see 117.8-1]* may, at the
83 decision of the OBC, be removed from the meeting. The presiding Chairperson
84 shall order the sergeant-at-arms to remove the individual from the meeting.
85 Removal is an option provided only in the case that a person causes a breach of
86 peace committed at a meeting. An individual removed from a meeting shall not be
87 allowed to return for the duration of the meeting *[see 117.9-2]*.
88 ▪ The presiding OBC Chairperson may take immediate action to remove an OBC
89 meeting attendee if their behavior results in an immediate danger to the health and
90 safety of any OBC meeting attendee *[see 117.9-3]*.
91 ▪ The OBC may permanently ban a person from attending an OBC meeting for any
92 of the following *[see 117.9-4]*:
93 ○ A person is repeatedly removed from an OBC meeting for disorderly or
94 disruptive behavior *[see 117.9-4(a)]*, or
95 ○ The behavior of a person reaches such a severe level that an automatic ban
96 is necessary to protect the health and safety of all OBC attendees *[see*
97 *117.9-4(b)]*.
98

99 Enforcement

- 100 ▪ This law shall be enforced according to Robert's Rules of Order *[see 117.10-1]*.
101 ▪ The OBC Chairperson, at the decision of the OBC, has the authority to remove
102 members of the public who violate this law and this decision is not appealable
103 *[see 117.10-2]* and *[see 117.9-2]*.
104 ▪ An OBC Officer or OBC Member may request a point of order to direct
105 compliance with requirements in this law, Robert's Rules of Order, or
106 requirements established by resolutions or SOPs adopted by the OBC *[see*
107 *117.10-3]*.
108

109 Other

- 110 • Please refer to the fiscal impact statement for any financial impacts.
111
-

Title 1. Government and Finances – Chapter 117
ONEIDA BUSINESS COMMITTEE MEETINGS
latityohkwak@nyehse> lutkanisa>@tha> laotiyanasla>sh&ha
the people are contesting – their meeting place - their laws

117.1. Purpose and Policy
 117.2. Adoption, Amendment, Repeal
 117.3. Definitions
 117.4. Rules of Order
 117.5. Public Comment and Discussion of Individuals
 117.6. Oneida Business Committee Meetings Schedule

117.7. Agenda
 117.8. Responsibilities of Oneida Business Committee Meeting
 Attendees
 117.9. Removal of a Disorderly or Disruptive Person
 117.10. Enforcement

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117.1. Purpose and Policy

117.1-1. *Purpose.* The purpose of this law is to identify how the Oneida Business Committee will carry out its responsibilities. Meetings of the Oneida Business Committee are for the purpose of conducting the business of the Oneida Nation as delegated to the Oneida Business Committee under the Constitution of the Oneida Nation.

117.1-2. *Policy.* It is the policy of the Nation that the Oneida Business Committee be clear and consistent in its actions and be guided by the responsibilities grounded in the Oneida culture and the Oneida Nation Constitution. It is further the policy that Oneida Business Committee meetings to be open to the public and to have discussions related to the items on the agenda in order to have the widest possible viewpoint, to request and receive technical advice and respect conflicting views.

117.1-3. *Roles and Responsibilities.* The Oneida Business Committee is elected by the membership of the Nation and is delegated legislative responsibility under Article IV of the Constitution of the Oneida Nation, General Tribal Council resolution # GTC-2-15-82, adoption of job descriptions in July of 1990, and a motion at the October 1998 General Tribal Council meeting. The work associated with this legislative responsibility is carried out through various subcommittees including, but not limited to, the Legislative Operating Committee, Community Development and Planning Committee, and the Quality of Life Committee, in order to obtain the broadest and most informed discussion. The action regarding this legislative responsibility is taken at a regular, special, or emergency Oneida Business Committee meeting, or when necessary, by e-poll in accordance with approved processes. The goal of this law is to formalize the action of legislative responsibility taking place at Oneida Business Committee meetings and the work of legislative responsibility within subcommittees.

117.2. Adoption, Amendment, Repeal

117.2-1. This law was adopted by the Oneida Business Committee by resolution BC - _____.

117.2-2. This law may be amended or repealed by the Oneida Business Committee or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

117.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

117.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, this law repeals the following:

- (a) Resolution # BC-08-14-91-A *BC Meeting – Executive Session for Employee Complaints.*

38 117.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
39

40 **117.3. Definitions**

41 117.3-1. This section shall govern the definitions of words or phrases used within this law. All
42 words not defined herein shall be used in their ordinary and everyday sense.

43 (a) “Board, Committee or Commission” means a board, committee or commission
44 created by the General Tribal Council or the Oneida Business Committee with members
45 appointed by the Oneida Business Committee or elected by the Nation’s membership.

46 (b) “Constitution” means the Constitution and By-laws of the Oneida Nation, as
47 amended.

48 (c) “Corporation” means a business that is chartered by the Nation.

49 (d) “Employee” means anyone employed by the Nation in one of the following
50 employed capacities: full-time, part-time, emergency temporary, limited term or on a
51 contractual basis. For purposes of this law the term employee also includes political
52 appointees.

53 (e) “Entities” means all boards, committees, commissions, departments, and programs of
54 the Nation.

55 (f) “Executive session” means a meeting which is held to discuss matters that require
56 confidentiality and are not open to the public.

57 (g) “Kalihwi=y%” means the good mind principle which represents “the use of the good
58 words about ourselves, our Nation, and our future.”

59 (h) “Member of the Nation” means an individual enrolled in the Oneida Nation.

60 (i) “Nation” means the Oneida Nation.

61 (j) “Officer” means an individual holding the position of chairperson, vice-chairperson,
62 secretary or treasurer on a board, committee or commission.

63 (k) “Open session” means a meeting which is held in a place reasonably accessible to the
64 public at all times.

65 (l) “Roberts Rules of Order” means a handbook for running meetings effectively and
66 efficiently that sets the guidelines for such issues as leading debates; recognizing
67 speakers; defining the role of the chair and other officers; proposing, seconding, and
68 voting on motions; and writing and amending constitutions and bylaws.

70 **117.4. Rules of Order**

71 117.4-1. The Oneida Business Committee shall use Robert’s Rules of Order, current edition, for
72 the procedural rules of its meetings except as specifically modified by the Constitution.

73 117.4-2. The Oneida Business Committee may:

74 (a) amend, modify, or direct that a rule shall not apply; and

75 (b) adopt Standard Operating Procedures that provide administrative guidance in the
76 application of rules.

78 **117.5. Public Comment and Discussion of Individuals**

79 117.5-1. *Discussion of Individuals.* There is a need for frank and honest discussions in all
80 meetings of the Oneida Business Committee. Such discussions often include personal
81 observations, evaluations, and judgments of other employees and members of the Nation. The
82 negative or disrespectful discussion of individuals in open session undermines the morale and
83 trust of employees and members of the Nation.

84 (a) It is the policy of the Nation that discussion in open and public meetings of the
85 Oneida Business Committee be strictly conducted in an orderly, civil manner avoiding
86 acrimony and ad hoc remarks.

87 (b) All discussion relevant to an agenda item regarding a member of the Nation or an
88 employee and the actions, activities, and/or performance responsibilities of that
89 individual may be respectfully discussed during the open session of the Oneida Business
90 Committee meeting.

91 (c) Should any information be received at any meeting of the Oneida Business
92 Committee that implicates the integrity, honesty, or morality of a member of the Nation
93 or an employee, such discussion shall be immediately stopped. The presiding
94 Chairperson shall regulate the discussion to ensure the integrity, honesty or morality of an
95 individual is not implicated during any discussions.

96 (d) The Oneida Business Committee shall have the authority to redact any statements
97 made during open session regarding improper discussion of an individual from all video
98 and audio recordings of the Oneida Business Committee meetings.

99 **117.5-2. Public Comment.**

100 (a) The Oneida Business Committee meetings are conducted to make decisions regarding
101 the business of the Nation as delegated by the General Tribal Council and the Oneida
102 Nation Constitution. However, public comment is a resource for ideas and concerns to be
103 raised and addressed by the Oneida Business Committee.

104 (b) Individuals shall be allowed to make public comments at the beginning of each
105 agenda item only. All public comments made shall be relevant to the current agenda item.
106 Each individual shall be allowed to give public comment one time per agenda item. Each
107 individual shall be limited to speaking for a maximum of three (3) minutes each per
108 agenda item. The time limitation may be extended by request of the individual with
109 approval of the Oneida Business Committee.

110 (c) All comments are subject to the limitations of section 117.5-1 when discussing
111 individuals or groups of individuals.

112 (d) No action is required to accept or otherwise take action regarding a comment being
113 made. Oneida Business Committee meeting attendees may ask questions while providing
114 public comment. If an Oneida Business Committee meeting attendee can provide a
115 proper response to a posed question then that individual may answer the question.

116 (e) Public comments shall be relevant to the current agenda item and may be any of the
117 following:

- 118 (1) A request to have the Oneida Business Committee review an issue or action;
- 119 (2) A comment on an item on the agenda;
- 120 (3) Praise regarding an entity, an individual or an employee;
- 121 (4) A public notice about an activity or fundraising event; and/or
- 122 (5) Other comments deemed pertinent by the presiding Chairperson.

123 (f) The Oneida Business Committee shall proceed with conducting official business
124 related to the agenda item once all public comments are received.
125

126 **117.6. Oneida Business Committee Meetings Schedule**

127 117.6-1. *Annual Schedule.* The Oneida Nation Secretary shall present, on or around October of
128 each year, a proposed schedule for regular meetings of the Oneida Business Committee for
129 approval by the Oneida Business Committee.

130 117.6-2. *Reporting Schedule.* The Oneida Nation Secretary shall present, on or around October
131 of each year, a proposed schedule for presentation of reports by entities at regular meetings of
132 the Oneida Business Committee for approval by the Oneida Business Committee.
133

134 **117.7. Agenda**

135 117.7-1. *Agenda.* The agenda for Oneida Business Committee meetings shall contain the
136 following sections. The general characteristics of each section are defined below. The Oneida
137 Business Committee agenda shall only contain sections that contain business that must be
138 addressed during that meeting. Not all sections of the agenda will be addressed at every meeting
139 of the Oneida Business Committee.

140 (a) *Call to Order.* The presiding Chairperson shall call the meeting to order, shall
141 establish the existence of a quorum, and identify reasons why members of the Oneida
142 Business Committee are not present.

143 (b) *Opening.* This section of the agenda shall be used to present any opening statements.

144 (c) *Adopt the Agenda.* The agenda for the meeting shall contain necessary subsections so
145 as to identify each section of the agenda that will be used during that meeting. If there are
146 amendments to the agenda, they should be made during this section, but are not required
147 to be done under this section of the agenda.

148 (d) *Oath of Office.* Individuals who have been elected or appointed to an office on a
149 board, committee, commission, as a police officer or other employee requiring an oath to
150 be taken shall be given the oath of office,

151 (e) *Minutes.* The minutes of each regular, special and emergency meeting of the Oneida
152 Business Committee presented for approval shall be listed in this section of the agenda.

153 (f) *Resolutions.* This section shall be used to present all resolutions to the Oneida
154 Business Committee for adoption.

155 (g) *Appointments.* Actions regarding appointments to boards, committees, commissions,
156 corporations, and other memberships of the Nation shall be taken in this section of the
157 agenda in accordance with the Nation's laws, policies and rules, specifically those
158 governing boards, committees and commissions of the Nation.

159 (h) *Standing Committees.* Standing committees are entities of the Oneida Business
160 Committee delegated certain responsibilities to act, and whose actions are reported to, the
161 Oneida Business Committee. Such actions may require further approval by the Oneida
162 Business Committee to carry out, such as the Finance Committee meeting minutes, or
163 adoption of laws and rules presented by the Legislative Operating Committee. Items
164 presented in this section of the agenda shall include minutes, quarterly reports, and other
165 actions presented by the Standing Committee.

166 (i) *General Tribal Council.* This section of the agenda shall only be open to members of
167 the Nation and shall address issues related to General Tribal Council meetings including,
168 but not limited to, scheduling General Tribal Council meetings, accepting and directing
169 action regarding petitions, and approving materials for presentation at General Tribal
170 Council meetings. The Oneida Business Committee may allow individuals who are not
171 members of the Nation to attend this section of the agenda if the attendance of the
172 individual is required for official purposes.

173 (j) *Standing Items.* This section of the agenda shall be used to present items which the
174 Oneida Business Committee has determined require a constant, short term, presence on
175 the agenda because repeat actions and/or follow-up actions may be necessary.

Draft 7 for OBC Consideration
2017 07 26

- 176 (k) *Unfinished Business*. This section of the agenda shall be used when agenda items
177 from prior meetings were unable to be completed.
- 178 (l) *Tabled Business*. This section of the agenda shall be used when an agenda item has
179 been specifically tabled from a prior meeting. The item on the agenda shall be clearly
180 labeled as a tabled action and the date of the meeting at which it was tabled shall be
181 noted.
- 182 (m) *New Business*. Any business brought before the Oneida Business Committee that
183 does not otherwise fit in any of the other agenda categories shall be placed in this section
184 of the agenda.
- 185 (n) *Travel Reports*. This section of the agenda shall be used to present reports regarding
186 approved travel that is required to be presented to or approved by the Oneida Business
187 Committee.
- 188 (o) *Travel Requests*. This section of the agenda shall be used to present requests for travel
189 by an Oneida Business Committee member or where approval by the Oneida Business
190 Committee is required.
- 191 (p) *Reports*. This section of the agenda shall be used to present quarterly reports as
192 directed by the Oneida Business Committee.
- 193 (q) *Executive Session*. This section of the agenda shall be used to discuss matters that
194 require confidentiality and meet the requirements set forth in the Open Records and Open
195 Meetings Law for limitations upon access and exceptions. This section of the agenda may
196 be organized to meet the needs of the Oneida Business Committee.
- 197 117.7-2. *Requests to Present Agenda Items*. In general, the following individuals are authorized
198 to present items on the agenda of the Oneida Business Committee.
- 199 (a) *Oneida Business Committee Members*. Each member of the Oneida Business
200 Committee is authorized to present items to be placed on the agenda for discussion and/or
201 action.
- 202 (b) *Chairpersons of Boards, Committees or Commissions*. Chairpersons, on behalf of
203 boards, committees or commissions, shall be authorized to submit the following to be
204 placed on the agenda:
- 205 (1) quarterly reports;
- 206 (2) contracts for the board, committee or commission requiring Oneida Business
207 Committee approval; and
- 208 (3) any other item that must be placed on the Oneida Business Committee
209 agenda.
- 210 (c) *Direct Reports*. Employees who are identified as direct reports to the Oneida Business
211 Committee shall be authorized to submit the following to be placed on the agenda:
- 212 (1) quarterly reports;
- 213 (2) contracts of the entity requiring Oneida Business Committee approval; and
- 214 (3) requests for actions under the section of the agenda containing new business
215 as described in section 117.7-1(l).
- 216 (d) *Corporations*. All chairpersons, presidents, agents or other authorized representatives
217 of a corporation shall be authorized to submit reports of the corporation and other items
218 on the agenda on behalf of the corporation, as directed by the corporate charter, operating
219 agreement or other governing document.
- 220

221 117.8. Responsibilities of Oneida Business Committee Meeting Attendees

222 117.8-1. *Behavior of Oneida Business Committee Meeting Attendees.* Keeping in line with the
223 Oneida principle of Kalihwi=y%, all attendees including the Oneida Business Committee
224 members are expected to treat each other with respect and kindness. Attendees shall not:

- 225 (a) Use profanity, interrupt others, heckle or threaten people, disrespect property or
226 exhibit behavior that disrupts the meeting or endangers the safety of other attendees;
- 227 (b) Be under the influence of alcohol or illegal drugs;
- 228 (c) Have a weapon on their person while on any public property of the Nation or at any
229 event sponsored by the Nation unless the Oneida Business Committee meeting attendee is
230 required to carry a weapon when acting in the official capacity of his or her employment;
231 and
- 232 (d) Take action that violates any laws, rules or policies of the Nation.

233 117.8-2. *Recording and Photographing.* Any Oneida Business Committee meeting attendee
234 may photograph, tape-record, or otherwise reproduce any part of a meeting required to be open
235 as long as the device:

- 236 (a) Is operated openly so that it is obvious to those in attendance that the meeting is
237 being recorded;
- 238 (b) Does not create an excessive noise or light that disturbs any individual attending the
239 meeting; and
- 240 (c) Does not otherwise interfere with an individual's observation or participation in the
241 meeting.

242

243 117.9. Removal of a Disorderly or Disruptive Person

244 117.9-1. *Sergeant-at-Arms.* The presiding Chairperson may designate an individual to serve as
245 the sergeant-at-arms for Oneida Business Committee meetings. The sergeant-at-arms shall
246 oversee the security of the meeting and ensure the safety of all present.

247 117.9-2. *Removal of a Disorderly or Disruptive Person.* If a meeting is willfully interrupted by
248 a person and the meeting cannot proceed forward or the person violates section 117.8-1
249 regarding behavior of Oneida Business Committee attendees and/or section 117.5-1 regarding
250 the discussion of individuals, the Oneida Business Committee shall decide if the individual shall
251 be removed from the meeting. The Oneida Business Committee's decision to remove a person
252 shall be final and not appealable. At the decision of the Oneida Business Committee the
253 presiding Chairperson shall order the sergeant-at-arms to remove the person from the meeting.
254 No person shall be removed from a meeting except for an actual breach of the peace committed
255 at the meeting. An individual removed from an Oneida Business Committee meeting shall not
256 be allowed to return for the duration of the meeting.

257 117.9-3. *Emergency Removal of a Disorderly or Disruptive Person.* If the disorderly or
258 disruptive behavior of an individual results in an immediate danger to the health and safety of
259 any Oneida Business Committee meeting attendee the presiding Chairperson may take
260 immediate action to remove the disorderly or disruptive person.

261 117.9-4. *Banning a Disorderly or Disruptive Person.* The Oneida Business Committee may
262 permanently ban a person from attending Oneida Business Committee meetings for any of the
263 following:

- 264 (a) A person is repeatedly removed from Oneida Business Committee meetings for
265 disorderly or disruptive behavior; or

266 (b) The behavior of a person reaches such a severe level that an automatic ban from
267 attending Oneida Business Committee meetings is necessary for the protection of the
268 health and safety of all other Oneida Business Committee meeting attendees.
269

270 **117.10. Enforcement**

271 117.10-1. This law shall be enforced according to Robert's Rules of Order, except as
272 specifically modified by the Constitution of the Oneida Nation and the Oneida Business
273 Committee.

274 117.10-2. *Enforcement by the Oneida Business Committee Chairperson.* At the decision of the
275 Oneida Business Committee the presiding Chairperson shall order the sergeant-at-arms to
276 remove any disorderly or disruptive person from the meeting.

277 117.10-3. *Enforcement by an Oneida Business Committee Officer or Member.* Officers and
278 members of the Oneida Business Committee are authorized, under Robert's Rules of Order, to
279 request a point of order to direct compliance with Robert's Rules of Order, requirements set forth
280 in this law or requirements set forth in resolutions or standard operating procedures adopted by
281 the Oneida Business Committee.

282
283 *End.*
284

285

Adopted - BC-

FINANCE ADMINISTRATION
Fiscal Impact Statement



MEMORANDUM

DATE: May 15, 2017
 FROM: Rae Skenandore, Financial Management Analyst
 TO: Larry Barton, Chief Financial Officer
 Ralinda Ninham-Lamberies, Assistant Chief Financial Officer
 RE: **Fiscal Impact of the Business Committee Meetings Law**

I. Estimated Fiscal Impact Summary

Law: Business Committee Meetings		Draft 6
Implementing Agency	Oneida Business Committee	
Estimated time to comply	Immediately upon approval	
Estimated Impact	Current Fiscal Year	10 Year Estimate
Start up		
Personnel		
Office		
Documentation Costs		
Total Estimated Fiscal Impact	\$0	\$ 0
Revenue and cost considerations	None	
Uncertainties and Unknowns	None	

II. Background

A. Legislative History

This is a new Law. A public meeting was held December 29, 2016.

B. Summary of the Content of the Law

1. Discussion of individuals shall be civil and respectful. Negative and disrespectful comments shall be immediately stopped by the Chair.

2. Public comments are limited to the beginning of the agenda item, must be relevant to the agenda item and shall be limited to three (3) minutes. Comments may be any of the following;
 - a) A request to have the Oneida Business Committee review an issue or action;
 - b) A comment on an item on the agenda;
 - c) Praise regarding an entity, an individual or an employee;
 - d) A public notice about an activity or fundraising event; and/or
 - e) Other comments deemed pertinent by the presiding Chairperson.
3. Annual OBC meeting schedule and reporting.
4. Format of the OBC agenda and authorized entities to request to present agenda items.
5. Behavioral expectations & recording requirements.
6. The Oneida Business Committee may appoint a sergeant-at-arms to serve as security during a meeting.
7. The Oneida Business Committee shall decide if a disorderly or disruptive person shall be removed from a meeting by the sergeant-at-arms for a breach of the peace.
8. Meeting attendees may be permanently banned from Oneida Business Committee meetings.

C. Methodology and Assumptions

1. A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the law after implementation.
2. Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.

3. The analysis was completed based on the information provided as of the date of this memo.

II. Agency Response

The Oneida Business Committee discussed the Law at a work meeting and reported that the only cost they foresaw with the implementation of the law is the estimated expense for the sergeant-at-arms. However, this is simply reallocating an existing resource and therefore no additional fiscal impact. The Secretary has indicated that the Law can be implemented immediately upon approval.

III. Financial Impact

No impact

IV. Recommendation

Finance does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Consider the Landlord-Tenant Emergency Amendments extension for adoption

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="Adoption Packet (Emergency)"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jennifer Falck, LRO Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



TO: Oneida Business Committee
 FROM: Brandon Stevens, LOC Chairperson *BS*
 DATE: July 26, 2017
 RE: Landlord-Tenant Law Emergency Amendments Extension

Please find the following attached backup documentation for your consideration of the Landlord-Tenant Law Emergency Amendments Extension:

1. Resolution: Landlord-Tenant Law Emergency Amendments Extension
2. Statement of Effect: Landlord-Tenant Law Emergency Amendments Extension
3. Landlord Tenant Law (Redline)

Overview

Extension of the emergency amendments to the Landlord-Tenant law (the “Law”) are requested in order to allow the Oneida Housing Authority’s Rent-to-Own program to continue to exist within the confines of the Law. The current emergency amendments expire on August 9, 2017, which does not provide adequate to discuss the additional concerns forwarded to a work meeting at the July 12, 2017 Oneida Business Committee meeting and adopt the permanent amendments.

The Oneida Business Committee can temporarily enact legislation when necessary for the immediate preservation of the public health, safety or general welfare of the Reservation population and when the amendment of legislation is required sooner than would be possible under the Legislative Procedures Act. A fiscal impact statement and public meeting are not required for emergency legislation.

The emergency amendments to the Landlord-Tenant law are necessary for the preservation of the public health, safety, or general welfare of the reservation population because the amendments prevent the prohibition of the Oneida Housing Authority from entering into rent-to-own program agreements when the Law became effective on February 9, 2017. Additionally, observance of the adoption requirements under the Legislative Procedures Act for adoption of this amendment would be contrary to public interest.

The emergency amendments to the Law will become effective immediately upon effect of the Law on February 9, 2017, and with this extension will remain effective until the earlier of the adoption of the permanent amendments or February 9, 2018.

Requested Action

Approve the Resolution: Landlord-Tenant Law Emergency Amendments.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # _____ Landlord-Tenant Law Emergency Amendments

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Landlord-Tenant law (the "Law") was adopted by the Oneida Business Committee by resolution 10-12-16-C; and
- WHEREAS,** the Law provides mechanisms for protecting the rights of the landlords and tenants of the Nation's rental programs; and
- WHEREAS,** the current Law applies to rental agreements defined as, "a written contract between a landlord and a tenant, where by the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less;" and
- WHEREAS,** the Oneida Housing Authority's rent-to-own program does not fall into the Law's definition of rental agreements because the rental agreement for the rent-to-own program generally has a fifteen (15) year term with conveyance of the home at the satisfaction of the rental agreement; and
- WHEREAS,** the rental agreements in the Law were limited to one (1) year terms to fortify the policy requiring annual renewals of rental agreements and to avoid month-to-month tenancies; and
- WHEREAS,** the emergency amendment to the Law maintains the Law's policies while including the Oneida Housing Authority's rent-to-own program by revising the definition of "rental agreement" to state, "a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less, provided that the term may be longer than one (1) year in circumstances where the contract is on a rent to own basis;" and
- WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis, to be in effect for a period of six (6) months, renewable for an additional six (6) months; and
- WHEREAS,** the emergency amendment was previously adopted by resolution BC-01-25-17-C and was justified as an emergency necessary for the preservation of the public health, safety, or general welfare of the reservation population to ensure that the Oneida Housing Authority is not prohibited from entering into rent-to-own agreements when the Landlord-Tenant law became effective on February 9, 2017; and

WHEREAS, these emergency amendments will expire on August 9, 2017 which does not allow enough to discuss the additional concerns forwarded to a work meeting at the July 12, 2017 Oneida Business Committee meeting and to adopt the amendments on a permanent basis; and

NOW THEREFORE BE IT RESOLVED, that the emergency amendment to the Landlord-Tenant Law is hereby extended for an additional six (6) month term in accordance with the Legislative Procedures Act, section 109.9-5(b), and shall expire upon the earlier of the adoption of the permanent amendments or February 9, 2018.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
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Statement of Effect

Landlord-Tenant Law Emergency Amendments

Summary

This Resolution extends an emergency amendment to the Landlord-Tenant Law (the “Law”) which would include the Oneida Housing Authority’s (OHA’s) rent-to-own program in the definition of rental agreement.

Submitted by: Krystal L. John, Staff Attorney, Oneida Law Office

Analysis by the Legislative Reference Office

This resolution extends an emergency amendment to the Landlord-Tenant Law for an additional six (6) month term. The Landlord-Tenant Law was adopted on October 12, 2016, set to become effective one hundred and twenty (120) calendar days later on February 9, 2017. Without the emergency amendment, the Law applies to rental agreements that are defined as, “a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less.” The rental agreements in the Law were limited to one (1) year terms to fortify the policy requiring annual renewals of rental agreements and to avoid month-to-month tenancies.

After the adoption of the Law it was discovered that Oneida Housing Authority’s (OHA’s) rent-to-own program does not fall into the definition of rental agreements provided in the Law because the rental agreement for the rent-to-own program generally has a fifteen (15) year term with conveyance of the home at the satisfaction of the rental agreement. Therefore, once the Law becomes effective on February 9, 2017, OHA will no longer be permitted to enter into rent-to-own agreements.

The emergency amendment to the Law maintains the polices the Law sets forth while including OHA’s rent-to-own program by revising the definition of “rental agreement” to state, “a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less, provided that the term may be longer than one (1) year in circumstances where the contract is on a rent to own basis.” This emergency amendment to the Law allows OHA to continue to enter into rent-to-own program agreements when the Law becomes effective on February 9, 2017.

Section 16.9-5 of the Legislative Procedures Act (LPA) allows the Oneida Business Committee to take emergency action where it is “necessary for the immediate preservation of the public health, safety or general welfare of the reservation population” and when “enactment or amendment of legislation is required sooner than would be possible under the Legislative Procedures Act.” The Landlord-Tenant Law Emergency Amendments prevent the prohibition of the OHA from entering into rent-to-own program agreements when the Law becomes effective on February 9, 2017, which would be necessary for the preservation of the public health, safety,

or general welfare of the reservation population. Additionally, observance of the adoption requirements under the LPA for adoption of this amendment would be contrary to public interest. Through the Resolution, the Oneida Business Committee has issued a continued finding of an emergency and has stated the necessity for extending emergency amendments to this Law. The LPA authorizes extensions of emergency amendments in section 109.9-5(b) for up to an additional six (6) month period.

The emergency amendments to the Landlord-Tenant Law took effect immediately upon effect of the law on February 9, 2017 and through this resolution are extended to remain in effect until the earlier of either the permanent amendments being adopted or February 9, 2018.

Conclusion

Adoption of this Resolution would not conflict with any of the Nation's laws.

Title 7. Property - Chapter 710
LANDLORD-TENANT
Tsi> Yuhw<tsyaw@ku Aolihw@ke
where it bound to the earth - issues

6	710.1.	Purpose and Policy	11	710.6.	Rights and Duties of Landlords and Tenants
7	710.2.	Adoption, Amendment, Repeal	12	710.7.	Domestic Abuse Protections
8	710.3.	Definitions	13	710.8.	Sex Offender Registry
9	710.4.	Rental Programs	14	710.9.	Termination of Tenancy at Death of Tenant
10	710.5.	Rental Agreement Documents	15	710.10.	Landlord or Tenant Actions
			16		

710.1. Purpose and Policy

710.1-1. *Purpose.* The purpose of this law is to provide mechanisms for protecting the rights of the landlords and tenants of the Nation's rental programs.

710.1-2. *Policy.* It is the Nation's policy to provide a fair process to all landlords and tenants of the Nation's rental programs that preserves the peace, harmony, safety, health, general welfare and the Nation's resources.

710.2. Adoption, Amendment, Repeal

710.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-12-16-C.

710.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

710.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

710.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

710.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

710.3. Definitions

710.3-1. This section shall govern the definitions of words and phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Comprehensive Housing Division" means the entity responsible for housing matters specifically related to rental agreements as defined by Oneida Business Committee Resolution.¹

(b) "Landlord" means the Nation in its capacity to rent real property subject to a rental agreement.

(c) "Nation" means the Oneida Nation.

¹ See BC Resolution 10-12-16-D providing that for purposes of this law, the Comprehensive Housing Division means the Division of Land Management for general rental agreements, the Oneida Housing Authority for income-based rental agreements and Elder Services for rental agreements through the Elder Services program.

- 47 (d) “Premises” means the property covered by a rental agreement, including not only the
48 real property and fixtures, but also any personal property furnished by the landlord
49 pursuant to a rental agreement.
- 50 (e) “Rental Agreement” means a written contract between a landlord and a tenant,
51 whereby the tenant is granted the right to use or occupy the premises for a residential
52 purpose for one (1) year or less, provided that the term may be longer than one (1) year in
53 circumstances where the contract is on a rent to own basis.
- 54 (f) “Reservation” means all property within the exterior boundaries of the reservation of
55 the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566,
56 and any lands added thereto pursuant to federal law.
- 57 (g) “Rule” means a set of requirements, including citation fees and penalty schedules,
58 enacted jointly by the Land Commission and the Comprehensive Housing Division in
59 accordance with the Administrative Rulemaking law based on authority delegated in this
60 law in order to implement, interpret and/or enforce this law, provided that where such
61 requirements relate solely to premises administered pursuant to federal funding, the
62 Comprehensive Housing Division has sole authority.
- 63 (h) “Tenant” means the person granted the right to use or occupy a premises pursuant to a
64 rental agreement.
- 65 (i) “Security Deposit” means a payment made to the landlord by the tenant to ensure that
66 rent will be paid and other responsibilities of the rental agreement performed.

68 **710.4. Rental Programs**

69 710.4-1. *Available Rental Programs.* Consistent with available funds, the Comprehensive
70 Housing Division shall provide residential rental programs for providing housing to the
71 following types of tenants and the Oneida Land Commission and the Comprehensive Housing
72 Division shall jointly establish rules naming said programs and providing the specific
73 requirements and regulations that apply to each program:

- 74 (a) Elder tribal members;
75 (b) Low-income Oneida tribal members and families; and
76 (c) Tribal members in general.

77 710.4-2. *Rental Eligibility Requirements.* In order to be eligible for a rental agreement,
78 applicants shall meet the following conditions:

- 79 (a) Be eighteen (18) years of age at the time of the application;
80 (b) Have no felony or drug convictions within the past two (2) years from the date of
81 application, provided that a pardon or forgiveness received pursuant to the Pardon and
82 Forgiveness law may provide an exception to this condition;
83 (c) Meet the local governments’ laws’ requirements regarding residency restrictions for
84 convicted sex offenders;
85 (d) Meet the income requirements for entering the rental agreement as determined by the
86 rental program’s governing rules;
87 (e) Not hold a residential lease with the Nation; and
88 (f) Meet any other eligibility requirements set by the rental program’s rules, which may
89 not be less strict than this law, but may be stricter than this law.

90 710.4-3. *Tenant Selection.* The Land Commission and the Comprehensive Housing Division
91 shall jointly develop rules governing the selection of applicants for the issuance of rental
92 agreements.

93

94 **710.5. Rental Agreement Documents**

95 710.5-1. *Severability of Rental Agreement Provisions.* The provisions of a rental agreement
96 are severable. If any provision of a rental agreement is void or unenforceable by reason of any
97 law, rule, regulation, or judicial order, the invalidity or unenforceability of that provision does
98 not affect other provisions of the rental agreement that can be given effect without the invalid or
99 unenforceable provision.

100 710.5-2. *Requirements of Rental Agreements and Terminations.* A rental agreement or
101 termination of a rental agreement is not enforceable unless it meets the requirements of this law
102 and is in writing.

103 (a) All rental agreements shall:

104 (1) Set forth the amount of rent or other consideration provided in exchange for
105 the ability to use/occupy the premises;

106 (2) Set forth the required amount of security deposit and require payment of the
107 security deposit prior to the tenant(s) taking use/occupancy of the premises;

108 (3) Set the time of commencement and expiration of the rental agreement;

109 (4) Provide a reasonably definite description of the premises;

110 (5) State that nothing in the agreement may be considered a waiver of the
111 Nation's sovereign immunity, provided that tenants may seek enforcement of a
112 rental agreement or dispute an action taken pursuant to a rental agreement with
113 the Oneida Judiciary; and

114 (6) Be signed by both the landlord and the tenant(s) prior to the tenant(s) taking
115 use/occupancy of the premises;

116 (A) The rental agreement is not required to be signed by all adults
117 using/occupying the premises, provided that the rights and responsibilities
118 contained in the rental agreement do not extend to persons that are not
119 named as tenants in the rental agreement.

120 (B) Unless legally separated, if a tenant(s) is married, the landlord shall
121 require that each spouse sign the rental agreement.

122 (b) Any provision of a rental agreement that does any of the following is void and
123 unenforceable.

124 (1) Allows a landlord to do or threaten to do any of the following because a tenant
125 has contacted an entity for law enforcement services, health services or safety
126 services:

127 (A) Increase rent;

128 (B) Decrease services;

129 (C) Bring an action for eviction pursuant to the Eviction and Termination
130 law; and/or

131 (D) Refuse to renew a rental agreement.

132 (2) Except as otherwise provided in this law in regards to domestic abuse,
133 authorizes the eviction or exclusion of a tenant from the premises other than
134 through the process described in the Eviction and Termination law.

135 (3) Requires the tenant to pay attorney's fees or costs incurred by the landlord in
136 any legal action or dispute arising under the rental agreement except as supported
137 by a court order.

138 (4) States that the landlord is not liable for property damage or personal injury
139 caused by negligent acts or omissions of the landlord. This subsection does not
140 affect ordinary maintenance obligations of a tenant under 710.6-3(b) or assumed
141 by a tenant under a rental agreement or other written agreement between the
142 landlord and the tenant.

143 (5) Imposes liability on the tenant for any of the following:

144 (A) Personal injury arising from causes clearly beyond the tenant's control.

145 (B) Property damage caused by natural disasters or by persons other than
146 the tenant or the tenant's guests or invitees. This subsection does not
147 affect ordinary maintenance obligations of a tenant under 710.6-3(b) or
148 assumed by a tenant under a rental agreement or other written agreement
149 between the landlord and the tenant.

150 (6) Waives any obligation on the part of the landlord to deliver the premises in a
151 fit and habitable condition or to maintain the premises during the tenant's
152 tenancy.

153 (7) Allows for periodic tenancy, which for the purposes of this section means
154 when a tenant uses/occupies a premises without an effective and valid rental
155 agreement by paying rent on a periodic basis including, but not limited to, day-to-
156 day, week-to-week and month-to-month.

157 710.5-3. *Assignment of Rental Agreements Not Permitted.* Assignments of rental agreements
158 are not permitted under any circumstances.

159

160 **710.6. Rights and Duties of Landlords and Tenants**

161 710.6-1. This section governs the rights and duties of the landlord and tenant in the absence of
162 any inconsistent provision found in a valid rental agreement.

163 710.6-2. *Disposition of Personal Property Left by the Tenant.* If the tenant moves from or is
164 evicted from the premises and leaves personal property, the landlord may presume that the tenant
165 has abandoned the personal property and may dispose of said property in any manner that the
166 landlord, in his or her sole discretion, determines is appropriate, provided that:

167 (a) The landlord shall hold personal property for a minimum of five (5) business days
168 and the tenant may retrieve said personal property by contacting the landlord.

169 (b) The landlord shall keep a written log of the date and the work time that the Nation's
170 staff expends storing and/or removing personal property and/or removing/disposing of
171 debris left at the property after the expiration of the timeframe provided in the order to
172 vacate.

173 (c) The Land Commission and the Comprehensive Housing Division shall jointly create
174 rules further governing the disposition of personal property.

175 710.6-3. *Repairs; Untenability.* This section applies to all leases if there is no contrary
176 provision in writing signed by both parties.

177 (a) *Duties of the Landlord.*

178 (1) Except for repairs made necessary by the negligence of, or improper use of the
179 premises by the tenant, the landlord has a duty to do all of the following:

180 (A) Keep in a reasonable state of repair portions of the premises over
181 which the landlord maintains control.

182 (B) Keep in a reasonable state of repair all equipment under the landlord's
183 control necessary to supply services that the landlord has expressly or

- 184 impliedly agreed to furnish to the tenant, such as heat, water, elevator, or
185 air conditioning.
- 186 (C) Make all necessary structural repairs.
- 187 (D) Except as provided in section 710.6-3(b)(2), repair or replace any
188 plumbing, electrical wiring, machinery, or equipment furnished with the
189 premises and no longer in reasonable working condition.
- 190 (E) Comply with any laws or rules of the Nation that are applicable to the
191 premises.
- 192 (2) If the premises are part of a building where other parts are occupied by one (1)
193 or more other tenants, negligence or improper use by one (1) tenant does not
194 relieve the landlord from the landlord's duty to make repairs as provided in 710.6-
195 3(a)(1), provided that the landlord may require the responsible tenant to pay for
196 such repairs.
- 197 (3) A landlord shall disclose to a prospective tenant, before entering into a rental
198 agreement with or accepting any earnest money or security deposit from the
199 prospective tenant, any violation of either the Building Code of the Oneida Nation
200 or the Zoning and Shoreland Protection Ordinance if all of the following apply:
- 201 (A) The landlord has actual knowledge of the violation;
- 202 (B) The violation affects the dwelling unit that is the subject of the
203 prospective rental agreement or a common area of the premises;
- 204 (C) The violation presents a significant threat to the prospective tenant's
205 health or safety; and
- 206 (D) The violation has not yet been corrected but the landlord shall correct
207 the violation prior to the tenant taking occupancy of the premises.
- 208 (4) If the premises are damaged by fire, water or other casualty, not the result of
209 the negligence or intentional act of the landlord, this subsection is inapplicable
210 and either section 710.6-3(b) or (c) governs.
- 211 (5) The landlord is responsible for all required pest control to keep the premises
212 in a safe and healthy condition, provided that where an infestation has occurred
213 due to the acts or inaction of the tenant the pest control costs may be assessed
214 against the tenant.
- 215 (b) *Duties of the Tenant.*
- 216 (1) If the premises are damaged, including by an infestation of insects or other
217 pests, due to the acts or inaction of the tenant, the landlord may elect to allow the
218 tenant to remediate or repair the damage and restore the appearance of the
219 premises by redecorating. However, the landlord may elect to undertake the
220 remediation, repair, or redecoration, and in such case the tenant shall reimburse
221 the landlord for the reasonable cost thereof; the cost to the landlord is presumed
222 reasonable unless proven otherwise by the tenant.
- 223 (2) The tenant shall keep plumbing, electrical wiring, machinery and equipment
224 furnished with the premises in reasonable working order.
- 225 (3) Tenants shall comply with all laws and rules of the Nation.
- 226 (c) *Untenability.* If the premises become untenable because of damage by fire, water or
227 other casualty or because of any condition hazardous to health, or if there is a substantial
228 violation of section 710.6-3(a) materially affecting the health or safety of the tenant, the
229 tenant may move from the premises unless the landlord promptly repairs, rebuilds or

230 eliminates the health hazard or the substantial violation of 710.6-3(a) materially affecting
231 the health or safety of the tenant.

232 (1) The tenant may also move and terminate the rental agreement if the
233 inconvenience to the tenant by reason of the nature and period of repair,
234 rebuilding or elimination would impose undue hardship on the tenant.

235 (2) If the tenant remains in possession, the landlord shall decrease rent for each
236 month to the extent the tenant is deprived of the full normal use of the premises.
237 The Land Commission and the Comprehensive Housing Division shall jointly
238 develop rules governing how and when rent is decreased pursuant to this section.
239 This subsection does not authorize rent to be withheld in full, if the tenant remains
240 in possession.

241 (3) If the tenant justifiably moves out under this subsection, the tenant is not
242 liable for rent after the premises become untenable and the landlord shall repay
243 any rent paid in advance apportioned to the period after the premises become
244 untenable. This subsection is inapplicable if the damage or condition is caused by
245 negligence or improper use by the tenant.

246 (d) *Check-in sheet.* Landlords shall provide all new tenants with a check-in sheet when
247 the tenant commences his or her occupancy of the premises that the tenant may use to
248 make comments, if any, about the condition of the premises. The landlord shall provide
249 the tenant with seven (7) days from the date the tenant commences his or her occupancy
250 to complete the check-in sheet and return it to the landlord. The landlord is not required
251 to provide the check-in sheet to a tenant upon renewal of a rental agreement.

252 (e) *Notice to Enter Required.* The landlord shall provide twenty-four (24) hour written
253 notice prior to entering the tenant's premises where notice is required to either be
254 personally served to the tenant or posted on the premises. A landlord is exempt from this
255 notice requirement in the case of an emergency welfare check. The basis of a welfare
256 check may include, but is not limited to the following:

257 (1) The landlord believes the tenant's or a child's wellbeing may be in jeopardy
258 based on reports of child abuse or neglect, medical concerns, suspicious activity
259 or other reported information;

260 (2) The landlord suspects the tenant has abandoned the premises; and/or

261 (3) The landlord receives notice that the premise's utilities have been
262 disconnected.

263 (f) *Acts of tenant not to affect rights of landlord.* No act of a tenant in acknowledging as
264 landlord a person other than the tenant's original landlord can prejudice the right of the
265 original landlord to possession of the premises.

266 (g) *Annual Inspection Required.* In the event the tenant renews the rental agreement for
267 additional terms, the landlord shall, at a minimum, inspect the premises once annually.
268

269 **710.7. Domestic Abuse Protections**

270 710.7-1. If a tenant notices the landlord of domestic abuse with of any of the following
271 documentation, regardless of marital status, the landlord shall change the locks to the premises
272 and, if the tenant is unmarried, allow the tenant to modify the rental agreement to remove the
273 domestic abuser:

274 (a) An injunction order under Wis. Stat. 813.12(4) protecting the tenant from a co-tenant;

- 275 (b) An injunction order under Wis. Stat. 813.122 protecting a child of the tenant from a
276 co-tenant;
- 277 (c) An injunction order under Wis. Stat. 813.125(4) protecting the tenant or child of the
278 tenant from a co-tenant, based on the co-tenant's engaging in an act that would constitute
279 sexual assault under Wis. Stat. 940.225, 948.02 or 948.025, or stalking under Wis. Stat.
280 940.32, or attempting or threatening to do the same;
- 281 (d) A condition of release under Wis. Ch. 969 ordering the co-tenant not to contact the
282 tenant;
- 283 (e) A criminal complaint alleging that the co-tenant sexually assaulted the tenant or a
284 child of the tenant under Wis. Stat. 940.225, 948.02 or 948.025;
- 285 (f) A criminal complaint alleging that the co-tenant stalked the tenant or a child of the
286 tenant under Wis. Stat. 940.32; or
- 287 (g) A criminal complaint that was filed against the co-tenant as a result of the co-tenant
288 being arrested for committing a domestic abuse offense against the tenant under Wis.
289 Stat. 968.075.

290 710.7-2. If a tenant is no longer eligible to maintain the rental agreement upon removing a co-
291 tenant domestic abuser from the rental agreement, the landlord shall permit the tenant to remain
292 on the premises for the longer of either the duration of the rental agreement or ninety (90) days
293 from the date the rental agreement is modified. If the latter applies, in addition to removing the
294 co-tenant that is the domestic abuser, the landlord shall also revise the rental agreement to extend
295 its duration.

296 710.7-3. The Eviction and Termination law provides tenants that are victims of domestic abuse
297 with a defense to eviction should the abusers actions be the cause for eviction.

298

299 **710.8. Sex Offender Registry**

300 710.8-1. Should a tenant request information about whether any other tenants are required to
301 register as a sex offender, the landlord shall provide the tenant with written notice that he or she
302 may obtain information about the sex offender registry and persons registered within the registry
303 by contacting the department of corrections. The landlord shall include in such notice the
304 appropriate telephone number and internet site of the department of corrections.

305

306 **710.9. Termination of Tenancy at Death of Tenant**

307 710.9-1. If a tenant dies, his or her tenancy is terminated on the earlier of the following:

- 308 (a) Sixty (60) days after the landlord receives notice, is advised, or otherwise becomes
309 aware of the tenant's death;
- 310 (b) The expiration of the term of the rental agreement.

311 710.9-2. The deceased tenant or his or her estate is not liable for any rent after the termination
312 of his or her tenancy. A landlord may not contact or communicate with a member of the
313 deceased tenant's family for the purpose of obtaining from the family member rent for which the
314 family member has no liability.

315 710.9-3. Nothing in this section relieves another adult tenant of the deceased tenant's premises
316 from any obligation under a rental agreement or any other liability to the landlord.

317 710.9-4. If the deceased tenant is a Tribal member whose death renders a co-tenant no longer
318 eligible for a rental agreement, the non-Tribal member tenant may remain in the premises for the
319 longer of either the duration of the rental agreement or ninety (90) days from the date of the

320 Tribal member tenant’s death. If the latter applies, the landlord shall revise the rental agreement
321 to extend its duration.

322

323

324 **710.10. Landlord or Tenant Actions**

325 710.10-1. The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding
326 actions taken pursuant to this law and/or a rental agreement.

327 710.10-2. No administrative hearing body, including a board, committee or commission, is
328 authorized to hear a complaint regarding actions taken pursuant to this law and/or a rental
329 agreement.

330 710.10-3. The landlord is the Comprehensive Housing Division in regards to taking actions
331 authorized under this law and complaints filed with the Oneida Judiciary shall name the
332 Comprehensive Housing Division and the specific program.

333

334 *End.*

335

336

Adopted – BC-10-12-16-C

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Consider adoption of the Children's Code.

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="Adoption packet"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jennifer Falck, LRO Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



TO: Oneida Business Committee
 FROM: Brandon Stevens, LOC Chairperson 
 DATE: July 26, 2017
 RE: Adoption of the Children's Code and the Nation's Indian Child Welfare Act Policy

Please find the following attached backup documentation for your consideration of the Children's Code:

1. Resolution: Adoption of the Children's Code and the Nation's Indian Child Welfare Act Policy
2. Statement of Effect: Adoption of the Children's Code and the Nation's Indian Child Welfare Act Policy
3. Children's Code Legislative Analysis
4. Children's Code Draft
5. Children's Code Fiscal Impact Statement

Overview

This resolution adopts the proposed Children's Code. The proposed Children's Code would allow the Nation to exercise jurisdiction over its children who are in need of protection or services. The goal of the proposed Children's Code is to ensure that child welfare matters involving Oneida children are handled on the Reservation where more family members and Oneida foster homes are located and the traditions and culture of the Nation can be better preserved. The Children's Code intends to bring and maintain Oneida children and their families closer to the Nation's resources which may result in a higher percentage of reunifications and lower the number of out-of-home placements.

The proposed Children's Code extensively details the roles and responsibilities of those entities involved in child welfare matters, and the processes which will be followed by the Oneida Family Court, including:

- The roles of the Nation's Indian Child Welfare Department *[see 708.7]*;
- The order of placement preferences to be followed when it is necessary to place a child outside of the home under this law *[see 708.11]*;
- The process and procedures for a child in need of protection or services proceeding *[see 708.17 through 708.28]*;
- The process and procedures of a guardianship for certain children in need of protection or services proceeding *[see 708.29 through 708.31]*;

- The process and procedures for the termination of parental rights [*see 708.32 through 708.40*]; and
- The process and procedures for adoption [*see 708.41 through 708.44*].

In accordance with the Legislative Procedures Act, a public meeting on the proposed law was held on May 4, 2017, with a comment period closing on May 11, 2017. All comments received during the public comment period were accepted by the Legislative Operating Committee at the May 17, 2017, Legislative Operating Committee meeting. All comments received were reviewed and considered at work meetings on May 17, 2017, May 18, 2017, and May 25, 2017. Any changes made based on those comments have been incorporated into this draft.

The resolution also amends the Nation's Indian Child Welfare Act Policy. With the adoption of the Children's Code and the dissolution of the Oneida Child Protective Board, it is critical for the protection of Oneida Children to establish an updated policy statement regarding placement preferences to provide direction to the Nation's Indian Child Welfare Department and the Oneida Law Office on how to handle Indian child welfare matters pending in outside jurisdictions.

Requested Action

Approve the Resolution: Adoption of the Children's Code and the Nation's Indian Child Welfare Act Policy

Oneida Nation

HANDOUT

Post Office Box 365

Phone: (920)869-2214

Oneida, WI 54155



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BC Resolution # _____
Adoption of the Children’s Code and the Nation’s Indian Child Welfare Act Policy

WHEREAS, the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

The Nation’s Children’s Code

WHEREAS, the Children’s Code recognizes the authority of the Oneida Nation to exercise the fundamental right of sovereignty and self-determination by setting forth procedures to provide for the welfare, care, and protection of Oneida children through the preservation of the family unit; and

WHEREAS, the Children’s Code allows the Nation to exercise jurisdiction over children who are in need of protection or services so that the Nation can ensure that child welfare matters involving Oneida children are handled on the Reservation where more family members and Oneida foster homes are located and the traditions and culture of the Nation can be better preserved; and

WHEREAS, the Children’s Code strengthens family life by assisting parents in fulfilling their responsibilities as well as facilitating the return of Oneida children closer to the Nation’s resources which may result in a higher percentage of reunifications, lower the number of out-of-home placements, and increase family stability; and

WHEREAS, the Children’s Code extensively details the roles and responsibilities of those entities involved in child welfare matters and the processes which will be followed by the Oneida Family Court, including proceedings for children in need of protection or services, guardianship for certain children in need of protection or services, termination of parental rights, and adoption; and

WHEREAS, the passage of the Children’s Code and the Nation’s updated Indian Child Welfare Act Policy will dissolve the Oneida Child Protective Board and re-delegate the Oneida Child Protective Board’s authority and responsibilities to the Nation’s Indian Child Welfare Department and the Nation’s Child Welfare attorney; and

WHEREAS, a public meeting on the proposed law was held on May 4, 2017, in accordance with the Legislative Procedures Act, and comments received were accepted and reviewed by the Legislative Operating Committee on May 17, 2017, May 18, 2017, and May 25, 2017; and

53 *The Nation's Indian Child Welfare Act Policy*

54

55 **WHEREAS,** the Oneida Business Committee adopted resolution BC-09-25-81, entitled "Oneida Child
56 Protective Board Ordinance," which delegated the powers conferred upon the Nation by
57 the Congress of the United States under the Indian Child Welfare Act to the Oneida Child
58 Protective Board; and

59

60 **WHEREAS,** the resolution BC-09-25-81 did not set forth the policy of the Oneida Nation to provide
61 direction to the Oneida Child Protective Board for how the Board should approach such
62 cases; and

63

64 **WHEREAS,** the Oneida Business Committee recognized in resolution BC-05-24-84-C that it took
65 "steps to protect the best interests of children and to promote the stability and security of
66 Indian tribes and families by establishing the Oneida Child Protective Board"; and

67

68 **WHEREAS,** the State of Wisconsin, on December 7, 2009, codified the Wisconsin Indian Child
69 Welfare Act, which strengthens and enhances the Indian Child Welfare Act and adopts
70 the minimum standards referenced in the Indian Child Welfare Act; and

71

72 **WHEREAS,** 25 U.S.C. §1915(c), the Indian Child Welfare Act, allows an Indian Tribe to establish a
73 different order of placement preference for foster care placements and adoptive
74 placements than those set out in §1915(a) and (b) of the federal Indian Child Welfare Act;
75 and

76

77 **WHEREAS,** the Oneida Business Committee recognized in resolution BC-05-13-15-A that it is critical
78 for the protection of our Oneida children to establish a policy statement regarding
79 placement preferences to provide direction to the Oneida Child Protective Board, the
80 Nation's Indian Child Welfare Department, and the Oneida Law Office; and

81

82 **WHEREAS,** with the adoption of the Children's Code and the dissolution of the Oneida Child
83 Protective Board, the Oneida Business Committee finds it critical for the protection of our
84 Oneida Children to establish an updated policy statement regarding placement
85 preferences to provide direction to the Nation's Indian Child Welfare Department and the
86 Oneida Law Office on how to handle Indian child welfare matters pending in outside
87 jurisdictions; and

88

89 *Adoption of the Children's Code and Effective Date*

90

91 **NOW THEREFORE BE IT RESOLVED,** that the Children's Code is hereby adopted and shall become
92 effective four hundred and fifty-five (455) calendar days from the approval date of the Fiscal Year 2018
93 Budget.

94

95 **BE IT FURTHER RESOLVED,** that the Oneida Business Committee is authorized to make such
96 modifications and additions to the effective date and Implementation Plan as it deems necessary to
97 implement the Children's Code in accordance with the proposed timelines, and shall ensure that the
98 Children's Code does not become effective until all proper infrastructure is in place.

99

100 *Implementation Plan for the Children's Code*

101

102 **BE IT FURTHER RESOLVED,** that the Oneida Business Committee is hereby directed to develop an
103 Implementation Plan to include the following:

104

105 1) *Acquisition and Training of Required Personnel.* The Oneida Nation entities affected by the
106 adoption of this Children's Code, including the Oneida Family Court and the Nation's Indian Child
107 Welfare Department, shall include the expenses associated with the new positions required to

108 implement the Children's Code in the Fiscal Year 2018 Budget. The affected entities shall begin
109 the hiring process and training new staff upon approval of the Fiscal Year 2018 Budget.
110

- 111 2) *Negotiation of 161 Agreements and Memorandums of Understanding and/or Agreement.* The
112 Nation shall seek to enter into all appropriate 161 Agreements and memorandums of
113 understanding and/or agreement.
114

115 a. *161 Agreements.* The Nation shall continue to work towards negotiations with Brown
116 County and Outagamie County for the development of 161 Agreements which clarify the
117 relationship between the Nation and the county in providing for the health, safety and
118 welfare of children by determining the circumstances in which the county department will
119 make payments for costs of out-of-home placements of children when the placement is
120 ordered by the Oneida Family Court.

121 b. *Memorandum of Understanding and/or Agreement with Brown County and Outagamie*
122 *County.* The Nation may seek to enter into a memorandum of understanding and/or
123 agreement with Brown County and Outagamie County to detail all responsibilities,
124 procedures, interactions, and use of foster homes, shelter care facilities, and treatment
125 facilities.

126 c. *Memorandum of Understanding and/or Agreement with Entities of the Nation.* The Indian
127 Child Welfare Department shall enter into memorandums of understanding and/or
128 agreement with the Oneida Trust Enrollment Committee and/or Department, Oneida
129 Police Department, Oneida Nation Child Support Agency, and any other appropriate
130 department in order to carry out the provisions of this law.
131

- 132 3) *Transfer of Cases.* The following determination has been made for the transfer of cases from
133 Brown and Outagamie County jurisdiction to the jurisdiction of the Oneida Family Court:
134

135 a. When the Children's Code becomes effective all new cases in Brown and Outagamie
136 County shall begin in or transfer to Oneida Family Court.

137 b. Any case in Brown and Outagamie County that has started within the most recent three
138 (3) months may transfer to the Oneida Family Court.

139 c. All other current cases may remain in Brown and Outagamie County, unless the Nation's
140 Indian Child Welfare Department determines the case would be better suited in the
141 Oneida Family Court or another party motions the Court to transfer jurisdiction.
142

143 Before the Children's Code becomes effective, the Indian Child Welfare Department will meet
144 with each affected family to discuss the status of their case, what jurisdiction the case would be
145 better suited in, and the family's feelings on transfer to the Oneida Family Court. At least sixty
146 (60) days before the Children's Code becomes effective the Legislative Operating Committee and
147 the Indian Child Welfare Department shall hold a work meeting to discuss the number of cases
148 seeking transfer to the Oneida Family Court.
149

- 150 4) *Recruitment of Foster Homes and Guardians ad Litem.* The Nation's Indian Child Welfare
151 Department shall continue efforts to develop effective recruitment methods to increase the
152 number of foster homes available for the Nation. The Oneida Family Court shall make recruitment
153 efforts to increase the number of guardians ad litem available for use by the Oneida Family Court.
154 The Oneida Family Court shall develop appropriate training for guardians ad litem involved in
155 child welfare proceedings.
156

- 157 5) *Dissolution of the Oneida Child Protective Board.* The Oneida Child Protective Board shall be
158 dissolved and no longer responsible for any involvement with Indian child welfare matters,
159 including those matters that fall under the jurisdiction of the Oneida Nation Judiciary, ICWA or
160 WICWA, effective September 30, 2017. The Nation's Indian Child Welfare Department and the
161 Nation's Child Welfare attorney shall be responsible for following the Nation's Indian Child
162 Welfare Act Policy.

163
164 The Chairperson and Secretary of the Oneida Child Protective Board shall be responsible for
165 closing out open business of the Oneida Child Protective Board and forwarding the materials
166 generated by the Oneida Child Protective Board to the Nation's Secretary's Office for proper
167 disposal by October 16, 2017, pursuant to the Nation's Comprehensive Policy Governing Boards,
168 Committees and Commissions.
169

170 *Adoption of the Nation's Indian Child Welfare Act Policy – For those cases outside the Jurisdiction of the*
171 *Nation*
172

173 **BE IT FURTHER RESOLVED**, the Oneida Business Committee hereby sets forth the following as the
174 policy of the Oneida Nation as it pertains to those cases that fall outside the jurisdiction of the Nation and
175 under the jurisdiction of the federal Indian Child Welfare Act (ICWA) and the Wisconsin Indian Child
176 Welfare Act (WICWA):
177

- 178 1) The Oneida Nation shall intervene in all ICWA/WICWA cases pending in outside jurisdictions
179 involving children that are enrolled members of the Nation or eligible for enrollment unless such
180 intervention would be impracticable under the circumstances of the case as decided by the
181 Nation's Indian Child Welfare Department and the Nation's Child Welfare attorney.
182
- 183 2) The Oneida Nation hereby establishes the following as the placement preferences should it be
184 necessary to place a child outside the child's home:
185
- 186 a. A member of the child's immediate or extended family;
 - 187 i. Extended family member means a person who has reached the age of eighteen
188 (18) and who is the child's grandparent, aunt or uncle, brother or sister, brother-
189 in-law or sister-in-law, niece or nephew, first, second, third or fourth cousin,
190 stepparent.
 - 191 b. A family clan member;
 - 192 c. A member of the Oneida Nation;
 - 193 d. Descendants of the Oneida Nation;
 - 194 e. A member of another federally recognized tribe;
 - 195 f. Fictive kin within the Oneida Nation community;
 - 196 i. Fictive Kin means a person or persons who, to the biological parents of the minor
197 child at issue, have an emotional tie to that parent wherein they are like family.
 - 198 g. Fictive kin outside the Oneida Nation community; or
 - 199 i. Fictive Kin means a person or persons who, to the biological parents of the minor
200 child at issue, have an emotional tie to that parent wherein they are like family.
 - 201 h. Any other person or persons not listed above as approved by the Nation's Indian Child
202 Welfare Department.
203

204 **BE IT FURTHER RESOLVED**, all those who work with Indian Child Welfare Cases, including the Indian
205 Child Welfare Department, the Social Services Department, and the Oneida Law Office shall be bound by
206 and required to follow the above policy statement.
207

208 **BE IT FURTHER RESOLVED**, that the Nation shall continue to follow and adhere to Federal law, Court
209 opinions which interpret Federal law, the Bureau of Indian Affairs Guidelines, and the Bureau of Indian
210 Affairs Regulations.
211

212 **BE IT FINALLY RESOLVED**, that the Nation's Indian Child Welfare Act Policy is hereby adopted and will
213 become effective September 30, 2017.
214



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



Statement of Effect

Adoption of the Children's Code and the Nation's Indian Child Welfare Act Policy

Summary

This resolution adopts the Children's Code and amends the Nation's Indian Child Welfare Act Policy.

Submitted by: Clorissa N. Santiago, Staff Attorney, Legislative Reference Office

Analysis by the Legislative Reference Office

This resolution adopts a new Children's Code and amends the Nation's Indian Child Welfare Act Policy.

The Children's Code recognizes the authority of the Oneida Nation to exercise the fundamental right of sovereignty and self-determination by setting forth procedures to provide for the welfare, care, and protection of Oneida children through the preservation of the family unit. The Children's Code allows the Nation to exercise jurisdiction over children who are in need of protection or services so that the Nation can ensure that child welfare matters involving Oneida children are handled on the Reservation where more family members and Oneida foster homes are located and the traditions and culture of the Nation can be better preserved. The Children's Code will strengthen family life by assisting parents in fulfilling their responsibilities as well as facilitating the return of Oneida children closer to the Nation's resources which may result in a higher percentage of reunifications, lower the number of out-of-home placements, and increase family stability.

In addition to the adoption of the Children's Code, which governs child welfare proceedings that fall under the jurisdiction of the Nation, the resolution addresses those cases that will be heard in outside jurisdictions by amending the Nation's Indian Child Welfare Act Policy. It is critical for the protection of Oneida Children to establish an updated policy statement regarding placement preferences and other standards to provide direction to the Nation's Indian Child Welfare Department and the Oneida Law Office on how to handle Indian child welfare matters pending in outside jurisdictions.

The adoption of the Children's Code and the amendments to the Nation's Indian Child Welfare Act Policy will dissolve the Oneida Child Protective Board, and repeal the following resolutions:

- Resolution # BC-09-25-81 *Oneida Child Protective Board Ordinance*;
- Resolution # BC-10-07-81-A *Appointing Members to the Oneida Child Protective Board*;
- Resolution # BC-05-24-84-C *Definition of Extended Family Member*;
- Resolution # BC-01-14-15-A *Amendment of Oneida Child Protective Board Ordinance*;
- Resolution # BC-05-13-15 *Indian Child Welfare Act Policy*; and

- Resolution # BC-12-10-03-A *Oneida Child Protective Boards Stipends.*

The Oneida Child Protective Board was created by Oneida Business Committee Resolution BC-09-25-81 to represent the interests of Oneida children and accept the delegation of authority and responsibility conferred on the Nation by the Indian Child Welfare Act (ICWA). The creation of the Oneida Child Protective Board was necessary because the Nation did not have an Indian Child Welfare (ICW) Department or Judiciary to take on the responsibility of handling child welfare cases. The Oneida Child Protective Board has played an integral and important role in child welfare cases for the Nation, and it is because of this hard work and dedication that the Nation is at a point where it is capable of exercising jurisdiction over child welfare cases.

The Nation is now at a place where it can exercise authority and responsibility over child welfare cases and adopt the Children's Code. The Nation's ICW Department workers, Oneida Law Office attorneys, and Family Court judge(s) are highly trained subject matter experts on child welfare issues and will ensure that placement preferences and other standards are properly followed. In addition to the ICW Department, Oneida Law Office attorneys and Family Court judges, the Nation provides guardians ad litem to the children and allows for parents to be represented by attorneys or advocates. This ensures the best interests of the child and the Nation as a whole are adequately represented.

The dissolution of the Oneida Child Protective Board is included in the resolution because with the implementation of the new processes and procedures contained in the Children's Code, it was determined that the Board is providing a duplication of services which is no longer efficient, effective or fiscally responsible. Information the Oneida Child Protective Board supplies now can be provided by the Trust Enrollment Department. The Trust Enrollment Department maintains accurate and complete records of enrollments and family trees and the Children's Code requires the Trust Enrollment Department and/or Committee to enter into a memorandum of agreement and/or understanding with the ICW Department to ensure this information continues to be shared.

The Nation's updated Indian Child Welfare Act Policy contained in the resolution will address those cases that do not fall under the jurisdiction of the Nation's Children's Code. All authority and responsibility previously delegated to the Oneida Child Protective Board, including the placement preferences, definition for extended family and other standards the Oneida Child Protective Board currently operates under, will be delegated to the Nation's ICW Department and Oneida Law Office attorney to guarantee that the placement preferences and all standards are followed. This allows all decisions and recommendations to be made by subject matter experts and prevents a duplication of services.

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws.



Children's Code Legislative Analysis

SECTION 1. BACKGROUND

REQUESTER: Oneida Child Protective Board	SPONSOR: Fawn Billie	DRAFTER: Clorissa N. Santiago	ANALYST: Candice E. Skenandore
Intent of the Amendments	Develop a Children's Code (Code) which would enable the Nation to take jurisdiction of child welfare matters involving the Nation's children.		
Purpose	Provide for the welfare, care and protection of Oneida children through the preservation of the family unit, while recognizing that in some circumstances it may be in the child's best interest to not be reunited with his/her family. This Code strengthens family life by assisting parents in fulfilling their responsibilities as well as facilitating the return of Oneida children to the jurisdiction of the Nation and acknowledging the customs and traditions of the Nation when raising an Oneida child.		
Affected Entities	Indian Child Welfare Department (Department), Trust Enrollment Committee, Oneida Police Department (OPD), Oneida Family Court (OFC), Trust Enrollment Department, Oneida Law Office (OLO), Oneida Child Protective Board (Board), Oneida Nation Child Support Agency.		
Affected Legislation	This Code makes references to the Rules of Civil Procedure; Rules of Evidence; Rules of Appellate Procedure; Child Support law; Wisconsin Statutes 940, 948, 48, 938 & 1708; Indian Child Welfare Act (ICWA), Wisconsin Indian Child Welfare Act (WICWA).		
Enforcement/Due Process	Any order issued under this Code is appealable to the Court of Appeals pursuant to the Rules of Appellate Procedure [See <i>Children's Code</i> , 7 O.C. 708.46]. Anyone that does not abide by an order of the Court can be held in contempt.		
Public Meeting	A public meeting was held on May 4, 2017.		

SECTION 2. LEGISLATIVE DEVELOPMENT

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- A. This Code applies to all child welfare cases and legal proceedings in which the Nation has jurisdiction. This Code does not restrict or limit another court from hearing matters involving an Indian child [See *Children's Code*, 7 O.C. 708.4-1]. An Indian child is a member of a federally recognized Tribe or eligible for membership in a federally recognized Tribe and has a biological parent who is a member [See *U.S. Department of Interior, Bureau of Indian Affairs, Final Rule: Indian Child Custody Proceedings*, 25 CFR 23].
- B. The expected benefits of this Code will allow the Nation to exercise its sovereignty and jurisdiction while at the same time strengthening the family unit and ensuring that Oneida children are raised with the customs and traditions of the Nation.

SECTION 3. CONSULTATION

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- A. The following departments were involved in consultations/discussions when developing this Code and legislative analysis:
- Finance Department
 - Oneida Child Protective Board
 - Oneida Indian Child Welfare Department
 - Oneida Family Court

- 19 ▪ Oneida Judiciary
20 ▪ Oneida Law Office
21 ▪ Oneida Nation Child Support Agency
22 ▪ Oneida Police Department
23 ▪ Legislative Affairs
24 ▪ Trust Enrollment Department
- 25 **B.** The following experts were consulted during the development of this Code and legislative analysis:
- 26 ▪ Anita Fineday, Managing Director, ICWP at Casey Family Programs
27 ▪ Matthew Morton, former Deputy Director, National Indian Child Welfare Association
28 ▪ Tania Cornelius, Tribal Affairs Specialist, Division of Safety and Permanence, Wisconsin
29 Department of Children and Families
30 ▪ Stephanie Lozano, Tribal Liaison, Wisconsin Department of Children and Families
31 ▪ Lisa Skenandore, former Director of ICW & Child Support, current Vice President of
32 Business Development, Systems & Methods, Inc.
33 ▪ Gary Huebner, Connecting Point AV & Security, Camera Corner
34 ▪ Bridget Bauman, Children’s Court Improvement Program Director, Director of State Courts
35 Office
36 ▪ Justin Wolff, Policy Analyst, Children’s Court Improvement Program
37 ▪ Raeann Skenandore, Court Administrator, Oneida Judiciary
38 ▪ Jacqueline M. Moen-Kadlec, Lead Administrative Social Worker, Ho Chunk Nation Child
39 and Family Services
40 ▪ Teresa Juga, Indian Child Welfare Manager, Stockbridge-Munsee
41 ▪ Samantha Wagner, Assistant Corporation Counsel, CHIPS, Brown County
42 ▪ Scott Wilson, Tribal Prosecutor, Menominee Indian Tribe of Wisconsin
43 ▪ Kristin Allen, Family Services Manager (ICW), Lac du Flambeau Band of Lake Superior
44 Chippewa Indians
- 45 **C.** A number of child welfare Codes and related documents were reviewed in the development and/or
46 implementation of the Code and legislative analysis, these Codes and documents include:
- 47 ▪ Confederated Salish and Kootenai Tribes, Title III, Chapter 2 – Child Abuse and Neglect
48 ▪ Forest County Potawatomi Children’s Code Ordinance (Chapter 3-1)
49 ▪ Fort McDowell Yawapai Nation, Court and Procedure (Chapter 1, Section 1-25 (C))
50 ▪ Ho Chunk Nation Code Title 4 – Children, Family, and Elder Welfare Code, Section 3 Hocak
51 Nation Children and Family Act
52 ▪ Indian Child Welfare Act of 1978 (25 U.S.C 21)
53 ▪ Lac du Flambeau Tribal Code, Child Welfare Code (Chapter 31)
54 ▪ Menominee Indian Tribe of Wisconsin, Health & Family (Chapter 368, Articles IX, X, & XI)
55 ▪ P.L.105-89, Adoption and Safe Families Act of 1997
56 ▪ Red Cliff Children’s Code (Chapter 26)
57 ▪ Shoshone & Arapaho Children’s Code, Title III
58 ▪ State of Wisconsin, Children’s Code (Wis. Stat. 48)
59 ▪ State of Wisconsin, Department of Health and Family Services, Division of Children and
60 Family Services Memorandums regarding 161 Agreements and High Cost Pool Funds
61 ▪ State of Wisconsin Foster Parent Handbook
62 ▪ St. Croix Chippewa Indians of Wisconsin Children’s Code
63 ▪ Stockbridge-Munsee Tribal Code, Youth Code (Chapters 7-11)
64 ▪ U.S. Department of Interior, Bureau of Indian Affairs, Final Rule: Indian Child Custody
65 Proceedings, 25 CFR 23
66 ▪ White Earth Band of Ojibwe Child/Family Protection Code, Title 4: Children and Families
67 ▪ White Earth Band of Ojibwe Judicial Code, Title 4a: Customary Adoption Code

- 68 ▪ 161 Agreements involving: Lac Courte Oreille Band of Lake Superior Chippewa Indians,
69 Red Cliff Band of Lake Superior Chippewa Indians, Bad River Band of Lake Superior Tribe
70 of Chippewa Indians, and Stockbridge-Munsee Community.
71

72 SECTION 4. PROCESS

73 A. Thus far, the Code has followed the process set forth in the Legislative Procedures Act.

74 B. The Code was added to the LOC's active files list on: April 7, 2008; February 6, 2012 and again on
75 September 17, 2014. The Oneida Child Protective Board Ordinance made reference to a need for a
76 Children's Code in 1981. The Nation at one time or another has had a desire to adopt a Children's Code
77 for the past 35 years.

78 C. At the time this legislative analysis was developed, the following work meetings were held/scheduled
79 in regards to the development of the current proposed Code and legislative analysis:

80 ▪ December 19, 2016: LOC, ICW and OLO

81 ▪ January 20, 2017: OLO

82 ▪ January 23, 2017: ICW

83 ▪ January 23, 2017: OFC

84 ▪ January 30, 2017: LOC Sponsor

85 ▪ February 10, 2017: LOC Sponsor

86 ▪ February 23, 2017: ICW, Finance

87 ▪ February 23, 2017: OFC, Finance

88 ▪ March 1, 2017: Court Administrator, OFC, Finance

89 ▪ March 3, 2017: ICW, Finance

90 ▪ March 17, 2017: OPD

91 ▪ April 7, 2017: LOC, OBC

92 ▪ April 14, 2017: Department of Children & Families, LOC, OPD, ICW, Legislative Affairs, OLO,
93 Finance, OFC

94 ▪ April 17, 2017: LOC, OPD, ICW, Legislative Affairs, Finance, OLO, OFC

95 ▪ April 19, 2017: Oneida Child Protective Board, LOC

96 ▪ April 21, 2017: ICW, Trust Enrollments

97 ▪ April 21, 2017: ICW

98 ▪ April 21, 2017: ICW, OFC, Court Administrator

99 ▪ April 21, 2017: ICW, Oneida Child Protective Board, OFC (Child Welfare Code Presentation)

100 ▪ April 24, 2017: Oneida Child Protective Board

101 ▪ May 2, 2017: ICW, Finance

102 ▪ May 3, 2017: Oneida Child Protective Board

103 ▪ May 9, 2017: ICW

104 ▪ May 12, 2017: LOC, ICW, OFC, GSD Director

105 ▪ May 17, 2017: LOC (public comment review)

106 ▪ May 18, 2017: ICW, Housing

107 ▪ May 18, 2017: LOC (public comment review)

108 ▪ May 25, 2017: LOC (public comment review)

109 ▪ June 2, 2017: ICW, OFC

110 ▪ June 5, 2017: ICW, GSD Director, OLO

111 ▪ June 9, 2017: OFC, LOC

112 ▪ June 22, 2017: OBC

113 ▪ June 26, 2017: ICW, LOC

114 ▪ July 14, 2017: ICW, OLO, GSD Director (161 Agreements)

115 ▪ July 20, 2017: ICW, OFC, Records Management

116 * meeting(s) between Brown & Outagamie Counties will be scheduled in the future
117

118 **SECTION 5. CONTENTS OF THE LEGISLATION**

- 119 A. It is the goal of this Code to allow the Nation to exercise jurisdiction over its children who are in the
120 need of protection or services and ensure that child welfare cases involving Oneida children are
121 handled on the Reservation where more family members are located and more Tribal foster homes are
122 available. Furthermore, it is the hope that the Code will bring Oneida children and their families
123 closer to the Nation's resources and keep these families near the Reservation which may result in a
124 higher percentage of reunifications and lower the number of unstable families.
- 125 B. The following is a more detailed overview of the proposed Code:
- 126 1. **Jurisdiction.** The Court will have personal jurisdiction, jurisdiction over the child who is alleged
127 to be in need of protection or services, and jurisdiction over other matters relating to the child. In
128 addition, cases from other courts of competent jurisdiction can be transferred to the Court so long
129 as personal jurisdiction is established. Furthermore, the Court can transfer a case under this Code
130 to a court of competent jurisdiction if that court has a significant interest and the transfer would
131 be in the child's best interest [*See Children's Code, 7 O.C. 708.5*].
- 132 a. **Personal Jurisdiction.** The Court has personal jurisdiction over a child that is present or
133 resides in Brown and Outagamie Counties and is enrolled or eligible for enrollment with the
134 Nation. The Court will also have personal jurisdiction over any child that is not enrolled or
135 eligible for enrollment so long as the child 1) is present or resides on the Reservation, 2) is a
136 sibling of a child that is enrolled or eligible for enrollment, and 3) the child's parent, guardian
137 or legal custodian consent to personal jurisdiction [*See Children's Code, 7 O.C. 708-5-1*].
- 138 b. **Jurisdiction over Children Alleged to be in Need of Protection or Services.** The Court will
139 have jurisdiction over a child alleged to be in need of protection or services if 1) personal
140 jurisdiction has been established and 2) the child is found to be subject to any of the
141 circumstances listed in section 708.5-2 of this Code. These circumstances include, but are
142 not limited to the child not having a parent or guardian, is a victim of abuse or neglect, is
143 receiving inadequate care, and more [*See Children's Code, 7 O.C. 708.5-2*].
- 144 c. **Jurisdiction over other Matters Relating to Children.** So long as jurisdiction is established,
145 the Court has the authority to terminate parental rights; appoint, revise and/or remove a
146 guardian and hold adoption proceedings [*See Children's Code, 7 O.C. 708.5-3*].
- 147 d. **Other.** Other tribes take jurisdiction over Indians that reside on their reservations. Indians
148 are typically identified as any member of a federal recognized tribe, Alaskan Native or
149 member of a regional corporation specified in 43 U.S.C. ' 1606 [*See Hocak Nation, Children
150 & Family Act 4 HCC ' 3, Ch 1.7.a (3) (c & d); White Earth, Child/Family Protection, Ch 1,
151 Section 1 (c), (e), (f) & (g) and Sections 2 & 3; Confederated Salish & Kootenai Tribes, Child
152 Abuse & Neglect, 3-2-103; Stockbridge-Munsee, Youth Code, Ch 7.3 (A) (1-3); Lac du
153 Flambeau, Child Welfare Code, 31.103 (3); and Potawatomi, Children's Code Ordinance, 3-
154 1 ' 3.1 (c)*]. This Code limits jurisdiction to children who are enrolled or eligible for
155 enrollment that are present or reside in Brown and Outagamie County or the child's sibling so
156 long the sibling lives on the Reservation and the parents consent to jurisdiction. During the
157 development of this Code it was discussed on whether or not to expand jurisdiction to include
158 any Indian residing on the Reservation. It was decided to limit jurisdiction to ensure the
159 Nation is properly structured to handle child welfare cases. It is unknown how many child
160 welfare cases the Nation may take jurisdiction over; but the Children's Court Improvement
161 Program provided the following number of cases involving Oneida children in need of
162 protection or services. These numbers were provided by doing a search on CCAP, which
163 may not accurately portray the number of children in need of protection or services (CHIPS)
164 cases that are active in the identified counties. It should be noted that these numbers reflect
165 the number of cases, not the number of children. There may be multiple children per case.
166

Year	Number of CHIPS Cases		
	BROWN CO.	OUTAGAMIE CO.	Total
2014	19	5	24
2015	22	9	31
2016	24	16	40

*please note that each case will most likely require multiple hearings per year

The following table illustrates how many cases the Department handles each month. The purpose of this table is to provide a better understanding of how many cases the Nation can expect to exercise jurisdiction over. The figures below include the Department's entire caseload, not just Brown and Outagamie Counties. Currently, the Department only handles cases in which the child is enrolled or eligible for enrollment. Because this Code allows the Nation to exercise jurisdiction over siblings of enrolled or eligible for enrollment children, the potential impact could increase the Department's workload. It should be noted that both the Department and Ho Chunk Nation stated the number of CHIPS cases are continuing to rise due to current drug trends and increased mental health issues. These factors will also play a role in Department's workload.

Date	On-Going Worker (# of Cases)	Intake Worker (# of Cases)	Total # of Cases per Month
October 2015	17	Not reported	17*
November 2015	11	Not reported	11*
December 2015	14	Not reported	14*
January 2016	15	6	21
February 2016	19	4	23
March 2016	17	3	20
April 2016	14	5	19
May 2016	13	0	13
June 2016	13	3	16
July 2016	12	4	16
August 2016	11	6	17
September 2016	14	2	16
October 2016	11	4	15
November	Not reported	Not reported	Not available
December 2016	18	4	22
January 2017	18	3	23
Average Monthly Cases	15	4	19

*notes missing information. It should also be noted that the Department was operating without a complete staff during a portion of 2016.

To better understand the table it is important to know that there are two types of case managers that work at the Department. The on-going worker ensures that conditions and services ordered by the Court are satisfied by providing resources to the clients. The intake worker is responsible for doing the initial investigation. The intake worker will make the initial determination to screen in a case. Typically intake workers handle cases for up to 60 days before the cases are either screened out or transferred to the on-going workers. Currently, the county's child protection services will do the investigation and make the determinations of whether or not to substantiate a case. This Code authorizes the Department's workers to make those determinations.

- 2. Department's Duties & Responsibilities.** This Code specifically identifies the duties and responsibilities of the Department and the Indian Child Welfare (ICW) worker. The ICW worker

responsibilities are located in section 708.7-1 of the Code and include: receiving, examining and investigating complaints and allegations of CHIPS; determining if there is an emergency and whether the child should be taken into custody; making recommendations to the Nation's child welfare attorney and the Court; developing reports and performing functions as directed by the Court; referring clients to counseling or services; identifying and developing resources in the community that can be utilized by the Department or Court; conducting reviews; explaining court proceedings to the child when appropriate; maintaining confidentiality; participating in training, conferences and workshops; and more.

The Department's duties are found in section 708.7-2 of the Code and include identifying and referring parties to resources available in the community; investigating, inspecting and licensing foster homes as well as monitoring and supervising foster homes and children in foster care; adhering to placement preference; entering into memorandum of understandings and/or agreements with the Trust Enrollment Committee, OPD, and Oneida Nation Child Support Agency as well as any other appropriate departments; and share information with social services, law enforcement agencies, and other entities of the Nation.

a. Foster Homes. It should be noted that the Department already licenses level 2 foster homes both on and off the Reservation. As of July 2017, the Nation had nine foster homes, with the potential of four additional homes becoming available soon. The Nation's foster homes are currently caring for 13 children/ [Information received from Foster Care Coordinator and Department Supervisor, email correspondences, January 23, 2017 and July 10, 2017]. Implementing this Code will require more foster home recruitment. It is because of this that the Department has indicated a need of an additional foster care coordinator.

3. Guardians ad Litem. This Code will require the use of guardians ad litem (GALs). A GAL is an individual that is appointed by the Court to represent the best interest of the person in which he/she was appointed for. The Court can appoint a GAL for any child in need of protection or services but must appoint a GAL for a child that is subject to a termination of parental rights case or a contested adoption or guardianship proceeding [See Children's Code, 7 O.C. 708.3-1 (x) and 708.8-1]. In state court, GALs are attorneys [See Wis. Stats. ' 48.235 (2)]. Like many other tribal Codes, to be a GAL according to this Code, the individual must meet specific qualifications which include: being at least 21 years old, being certified and in good standing, never been convicted of a felony unless a pardon or forgiveness was received; and never been convicted of a crime against a child. The Code does not allow a GAL to be appointed if he/she has a personal interest in the case or a party; is appearing as counsel or advocate in the case or is related to a party. The Code requires GALs to complete training or be certified before participating in child welfare cases. The Code also specifies the GAL's responsibilities and addresses GAL compensation [See Children's Code, 7 O.C. 708.8-2 through 708.8-4; Red Cliff, Children's Code, 26.6.3; Ho Chunk Nation, Children and Family Act, I.6.v; White Earth, Child/Family Protection Code, Section 3(o)].

a. Current GAL Numbers. The OFC has indicated that there are currently 17 GALs that have been approved to take appointments from the OFC. Of this amount, six are not being utilized because they said they no longer wish to take on any cases or have failed to respond to requests-making them inactive. Three GALs are only accepting approximately one-time per year. In total, there are eight GALs that are actively taking cases; however, two of them prefer only one appointment at a time. This may be because many of the GALs have full-time jobs which limit their ability to take on multiple cases. It is unknown how many GALs will be needed to successfully implement this Code but according to the OFC, a fair estimate would be approximately 2-3 effective GALs for every five cases. It should be noted that the current GALs will need additional training to participate in child welfare cases, if they choose to participate. Recruitment for more GALs is essential for implementation of this Code.

4. Advocates. A parent, guardian and legal custodian can obtain an advocate to represent him/her at any proceeding at his/her own expense [See Children's Code, 7 O.C. 708.9-1]. In order to be an

245 advocate under this Code, the advocate must be at least 21 years old, be admitted to practice
 246 before the Judiciary, and never been convicted of a felony unless he/she received a pardon or
 247 forgiveness, and was never convicted of a crime against a child. In addition, the advocate must
 248 comply with all Codes, rules and policies of the Nation governing advocates [*See Children's*
 249 *Code, 7 O.C. 708.9-2 and 708.9-3*]. It should be noted that in state court proceedings involving
 250 state and federal Indian Child Welfare Acts, parents are appointed lawyers to represent them as
 251 outlined in Chapter 48 of the Wisconsin Statutes [*See Wis. Stats. ' 48.23 (1g) and (2g)*].

252 In order to participate in cases before the Oneida Judiciary, the advocate must be
 253 formally approved for admission to practice. The Oneida Judiciary's Rules of Admission set out
 254 general requirements for lay advocates which require them to file a written application for
 255 admission, pass a criminal background check, be at least 21 years old, be of good character to
 256 practice, and take an oath of admission [*See Oneida Judiciary, Rules of Admission, Rule 1-2*]. In
 257 addition to the requirements above, the advocate must provide educational and/or professional
 258 background information, as well as follow the Oneida Rules of Professional Conduct for
 259 Attorneys [*See Oneida Judiciary, Rules of Admission 1-5 & 1-8*].

260 **5. Cultural Wellness Facilitator and Healer.** This Code allows the Department to provide a
 261 Cultural Wellness Facilitator and Healer throughout the child welfare proceedings. The Cultural
 262 Wellness Facilitator and Healer provides wellness sessions utilizing culturally based and
 263 appropriate healing methods; training on Oneida culture, language, and traditions; and any other
 264 necessary services [*See Children's Code, 7 O.C. 708.10*]. The Nation currently has two
 265 individuals that can act as Cultural Wellness Facilitators and Healers. However, the
 266 Governmental Services Division Director indicated that current staff would not be available to
 267 handle the child welfare cases in addition to their current workload and that two additional staff
 268 will be needed to implement the Code. The Cultural Wellness Facilitator and Healer will offer a
 269 unique service to families and staff that is not currently being provided in state court. In addition,
 270 the Cultural Wellness Facilitator and Healer will provide cultural training to non-Oneida Foster
 271 Homes in the hopes that Oneida children will continue to have access to their cultural and
 272 traditions.

273 **6. Placement Preference.** The preference for placement in CHIPS cases can be found in section
 274 708.11-1 of the Code and includes the following prioritized order:

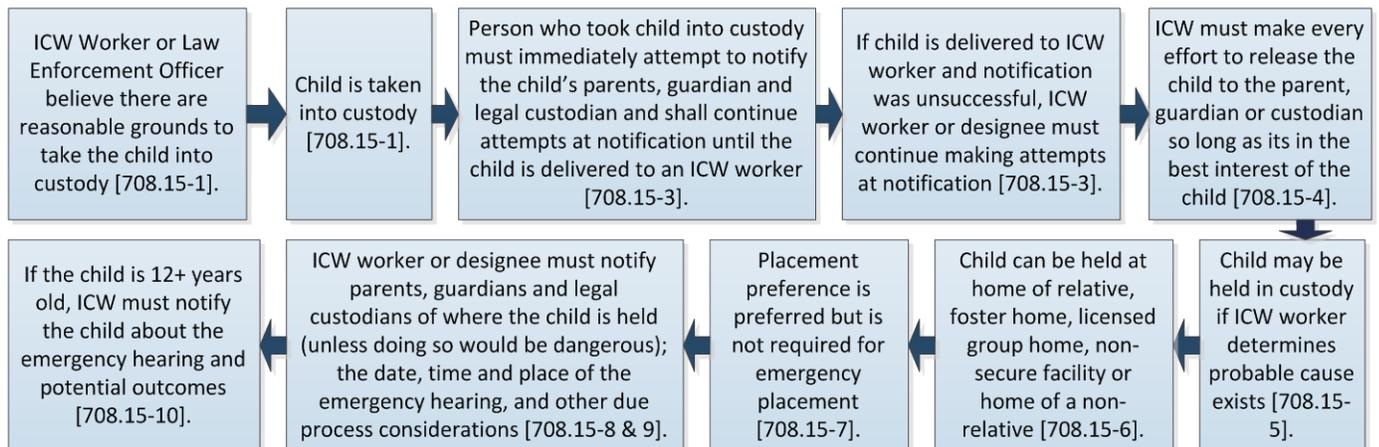
- 275 ▪ A member of the child's immediate or extended family
- 276 ▪ A family clan member
- 277 ▪ A member of the Nation
- 278 ▪ Descendants of the Nation
- 279 ▪ A member of another federally recognized tribe
- 280 ▪ Fictive kin within the Nation community
- 281 ▪ Fictive kin outside the Nation community
- 282 ▪ Any other person not listed above

283 The Court can deviate from this list if it is determined to be in the child's best interest and if
 284 there is good cause. Good cause is when 1) the child's parent or child, if the child is at least 12
 285 years old and makes a request, 2) the child requires specialized treatment because of an
 286 extraordinary physical, mental, or emotional health condition, 3) there is no suitable placement
 287 for the child in any of the preferences listed above or 4) any other reason the Court deems to be
 288 in the child's best interest [*See Children's Code, 7 O.C. 708.11-3*].

289 **7. Notice of Petitions.** Notice of the CHIPS petition can be given to the parties directly by the
 290 Nation's Child Welfare Attorney or Department or pursuant to the Oneida Judiciary Rules of
 291 Civil Procedure. Petitions for termination of parental rights (TPR), guardianship, and adoption
 292 must follow the notice requirements found in the Oneida Judiciary Rules of Civil Procedure. Any
 293 other notification of subsequent hearings must be served by first class mail to the most recently
 294 verified last-known address of the party(ies) [*See Children's Code, 7 O.C. 708.12*].

- 295 **8. *Hearings (General).*** The child may be excluded from hearings if the Court determines it is in the
296 child's best interest. The Rules of Evidence are not binding at emergency custody hearings,
297 dispositional hearings, or a hearing about changes in placement, revisions and extensions of
298 dispositional orders, extension, or hear termination of guardianship orders. If an alleged father
299 appears at a hearing under this Code, the Court can refer the matter to the Oneida Nation Child
300 Support Agency to determine paternity. In addition, during the dispositional hearing, the Court
301 can refer the matter or require the Department to refer the matter of child support to the Nation's
302 Child Support Agency [*See Children's Code, 7 O.C. 708.13*].
- 303 **9. *Discovery & Records.*** Upon written request, the parties and their counsel have a right to inspect,
304 copy, or photograph the child's records identified in section 708.14-1 of this Code. The Court
305 can issue an order if the request for discovery is refused. Discovery that violates privileged
306 communication or a work product rule can be denied in whole or in part by the Court; in addition,
307 the Court can place limits or set conditions on discovery. The person who filed a child welfare
308 complaint must have their identity redacted in all documents that are made available to the
309 parties. Discovery procedures identified in the Oneida Judiciary Rules of Civil Procedure will
310 work in conjunction with this Code [*See Children's Code, 7 O.C. 708.14*].
- 311 **10. *Taking a Child into Custody Process.*** A child can be taken into custody if there are reasonable
312 grounds which include 1) a warrant to apprehend the child, 2) the child is suffering from an illness or
313 injury or is in immediate danger and removal is necessary and/or, 3) the child violated the conditions
314 of the order [*See Children's Code, 7 O.C. 708.15-1*]. The following flow chart illustrates the process
315 for taking a child into custody in accordance with section 708.15 of this Code:

Taking Child Into Custody

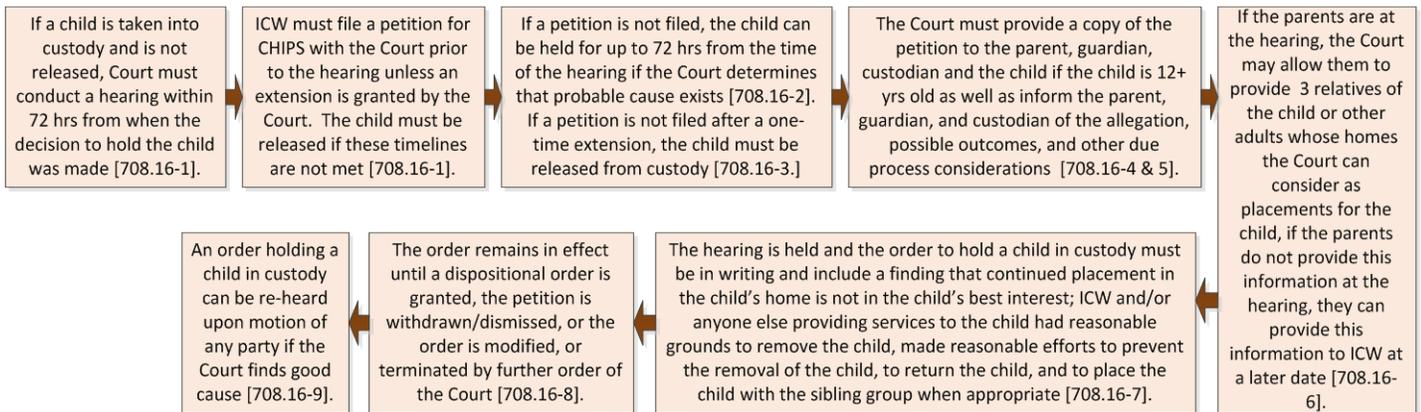


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- 318 ■ ***Probable Cause.*** A child can be held in custody if probable cause exists. Probable cause
319 exists if it is believed 1) the child will cause injury to him/herself or others, 2) the child will
320 be injured by others, 3) the parent, guardian, or legal custodian or other responsible adult is
321 neglecting, refusing, unable, or unavailable to provide adequate supervision and care and that
322 the child's (or any child in the home) safety and well-being is not adequately provided for,
323 and 4) the child will run away or be taken prior to the proceedings [*See Children's Code, 7*
324 *O.C. 708.15-5*].

- 325 **11. *Emergency Custody Hearing.*** The procedure for emergency custody hearings is shown below:

Emergency Custody Hearings

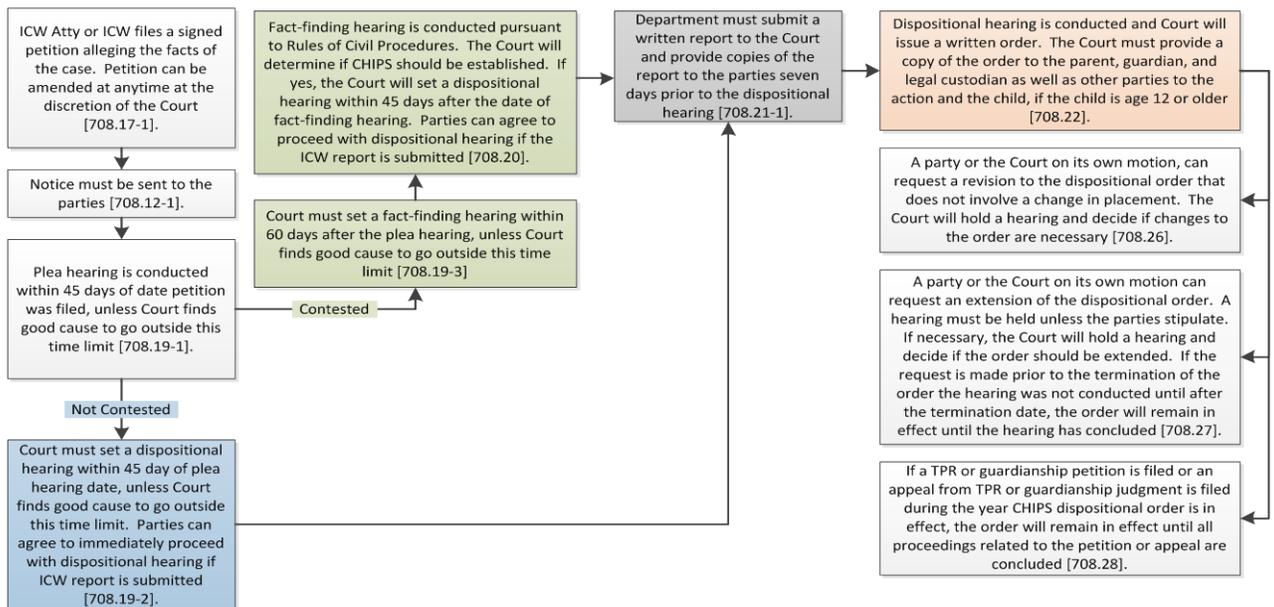


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- **Probable Cause.** If a petition is not filed prior to the hearing, the Court can hold a child for up to 72 hours excluding weekends and holidays if probable cause exists. Probable cause exists if 1) additional time is needed to determine if a petition initiating the proceeding is necessary, 2) the child is imminent danger to his/herself or others, or 3) the parent, guardian, and legal custodian or other responsible adult is neglecting, refusing, unable, or unavailable to provide adequate supervision and care [See Children's Code, 7 O.C. 708.16-2].

12. CHIPS Proceedings. The following illustration depicts the legal proceedings for a CHIPS case:

CHIPS Proceeding



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- **CHIPS Petitions.** The petition must include the names, birth dates, and tribal affiliations of the child, parents, guardians, legal custodians, and spouse, or if no person can be identified, the nearest relative. The petition must also include whether the child is in custody and if yes, where the child is held and the date he/she was taken into custody so long as this information does not put anyone in danger. A Uniform Child Custody Jurisdiction and Enforcement Act affidavit must accompany the petition. In addition, the petition must include a statement of facts and any other information required by the Court. If any of the required facts are unknown, the petition must state this [See Children's Code, 7 O.C. 708.17-2 & 708.17-3].

- 345 ▪ *Consent Decree.* This Code allows for the use of consent decrees. A consent decree is a court
346 decree that all parties agree to [See *Black's Law Dictionary, Abridged 9th Edition, pg. 372*].
347 After a petition is filed but before a judgment is entered, the Court can suspend a CHIPS
348 proceeding and place the child under supervision within his/her home or where the child is
349 currently placed. The Court can establish terms and conditions regarding the child and the
350 parents, guardian or legal custodian. The purpose of a consent decree is to get the parents,
351 guardian or legal custodian to agree to terms and conditions in order to prevent the child from
352 being in need of protection or services. Consent decrees last up to six months with an
353 additional six month extension [See *Children's Code, 7 O.C. 708.18-3 & 708.18-4*]. During
354 this time the Department will make service referrals to the family as well as monitor the
355 circumstances to ensure there are no safety concerns and that the child's environment is
356 improving. The consent decree can end prior to the time limits noted above if the court
357 ordered conditions have been met and the safety issues are eliminated. If the court ordered
358 conditions are not met, the Department may request that the consent decree be vacated and
359 the CHIPS matter can resume at the same point it was at when the consent decree was
360 entered. According to both the Tribal Prosecutor for Menominee Indian Tribe of Wisconsin
361 and the CHIPS Assistant Corporation Counsel for Brown County, consent decrees are rare;
362 Brown County typically offers consent decrees for 4-5 families a year. Although consent
363 decrees are not used often, Brown County likes to have this option available as it provides
364 another tool when negotiating and ultimately resolving a case without going to trial.
365 According to Brown County Corporate Counsel, there are cases where facts or situations
366 change shortly after a petition is filed and consent decrees provide a way to encourage parents
367 to make changes while still monitoring the situation. It could also allow for placement with a
368 safe parent without having to get the court ordered changed. However, Brown County would
369 not recommend entering into a consent decree without a plea from a parent that would be
370 held open for the duration of the consent decree.
- 371 ▪ *CHIPS Plea Hearing.* Before the Court can accept an admission or plea of no contest, the
372 Court must address the parties and determine: if the admission or plea of no contest is made
373 voluntarily; that the parties understand the allegations and potential outcomes; that no
374 promises or threats were made to elicit the admission or plea; and inquire as to the facts of the
375 admission or plea [See *Children's Code, 7 O.C. 708.19-4*].
- 376 ▪ *CHIPS Disposition Report.* The Department must submit a written report to the Court
377 regarding CHIPS cases and provide a copy of the report to the parties at least seven days prior
378 to the disposition hearing. The report must contain the information listed in section 708.21-1
379 of this Code which includes: the social history of the child, a strategic plan for the care and
380 assistance to the child and family that will alleviate the issues addressed in the petition, a
381 detailed explanation of the plan and the benefits of such plan, and if out-of-home placement
382 is recommended and specific reasons for such recommendation. If the Department
383 recommends out-of-home placement, the Department must include all of the following in the
384 written report: 1) the location of placement and where it fits within the placement
385 preferences, 2) whether child support should be established, 3) specific information showing
386 continued placement in the child's home is not in the child's best interest, and 4) when
387 necessary, that reasonable efforts to place the child with his/her sibling group was made,
388 unless it is not in the best interests of the child or the child's siblings. The Department can
389 ask the Court to withhold identifying information if such information would result in
390 imminent danger to the child or anyone else [See *Children's Code, 7 O.C. 708.21-2 & 708.21-3*].
- 391 ▪ *CHIPS Dispositional Hearing.* Any party can present relevant evidence, including expert
392 testimony and make alternative dispositional recommendations. If out-of-home placement is
393 recommended, the Department must 1) show that the continued placement in the child's
394 home is not in the best interest of the child, 2) the Department made reasonable efforts to
395 prevent removal of the child, and 3) if appropriate, place the child with his/her sibling group

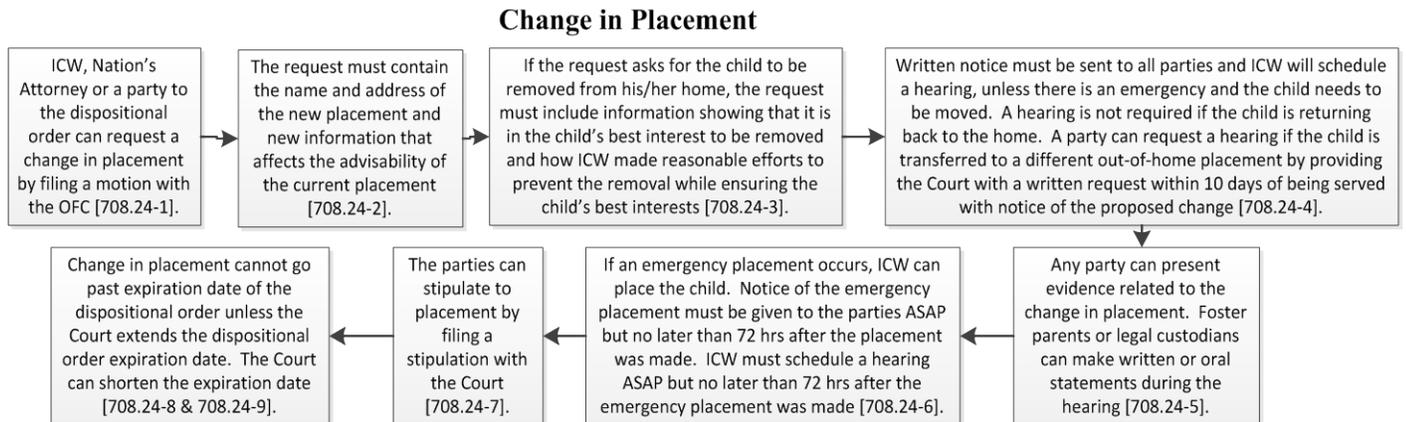
396 unless it is not in the best interest of the child or siblings. The Court must provide a written
397 dispositional order which must protect the best interests of the child in a way that is least
398 restrictive of the parents' and child's rights as well as assure the care, treatment and/or
399 rehabilitation of the child and family. The family unit must be preserved unless it is not in
400 the best interests of the child, in which case, the Court must consider transferring the custody
401 pursuant to the placement preference list. The order must include a treatment plan and
402 specific services to be provided to the child and family and legal custodian; if necessary, the
403 location of the child so long as disclosing this information does not put the child or anyone
404 else in imminent danger; the date when the order expires; the amount of child support to be
405 paid, (if any); that the Department made reasonable efforts to prevent removal of the child
406 from the home so long as it was in the child's best interests; if the child is placed under the
407 supervision of the Department that the Department has placement and care responsibility as
408 well as primary responsibilities for providing services to the child and family; place the child
409 with his/her sibling group, when appropriate, so long as it is in the child's or sibling's best
410 interest; conditions in which the parties must comply and set reasonable parental visitation as
411 long as it is in the child's best interest [*See Children's Code, 7 O.C. 708.22-1 through*
412 *708.22-4*].

413 The Court can order the parent, guardian and legal custodian to comply with any
414 conditions or treatment plan. The conditions or treatment plan must identify 1) the problems
415 or conditions that resulted in child abuse or neglect, 2) the treatment goals and objectives for
416 each condition or requirement included in the plan, including the safe return of the child to
417 the family when applicable, 3) the specific treatment objectives that specifies the roles and
418 responsibilities of all parties addressed in the plan, and 4) a notice that completion of the plan
419 does not guarantee the return of the child. The treatment plan may include recommendations
420 and the Court may require the parent, guardian and legal custodian participate in a treatment
421 program such as mental health, substance abuse, anger management, individual or family
422 counseling, parenting class, cultural wellness treatment and training, and/or any other
423 treatment as deemed appropriate by the Court [*See Children's Code, 7 O.C. 708.22-5*].

424 The Department may not be required to make reasonable efforts to return the child to
425 his/her home if the parent was convicted of committing a crime contained in Chapters 940 &
426 948 of the Wisconsin Statutes or any other similar Codes [*See Children's Code, 7 O.C.*
427 *708.22-6*]. The Court must provide a copy of the disposition order to the child's parents,
428 guardian and legal custodian as well as other parties to the action and the child, if the child is
429 at least 12 years old. If the child is placed out-of-the home or if visitation is denied because
430 of CHIPS, the Court must both orally inform the parent at the hearing and include in the
431 written disposition order, any grounds for TPR and the conditions necessary for the child to
432 be returned or for parental visitation [*See Children's Code, 7 O.C. 708.22-7 & 708.22-8*].

433 **13. Permanency Plans.** Any time a CHIPS dispositional order places the child outside of the home,
434 the Department must prepare a written permanency plan. Section 708.23-1 of this Code sets out the
435 requirements for what must be included in the plan. The initial permanency plan must be filed with
436 the Court within 60 days after the date the child was removed from the home, unless the child was
437 returned within that time. The Court must hold a review on the permanency plan no later than six
438 month after the date the child was placed outside the home. After the hearing, the Court must enter a
439 written order addressing 1) the necessity and appropriateness of the plan, 2) compliance with the plan
440 by the identified parties, 3) efforts taken to meet the needs of the child and the parents, 4) progress on
441 eliminating the causes of the child to be placed outside the home and returning the child or obtaining
442 permanent placement, 5) date the child will be returned, be placed for adoption or other permanent
443 living arrangement, 6) whether the Department made reasonable efforts to achieve the permanency
444 plan goal and keep the sibling group together or have frequent visitation and 7) date of the next
445 review hearing, if appropriate [*See Children's Code, 7 O.C. 708.23*].

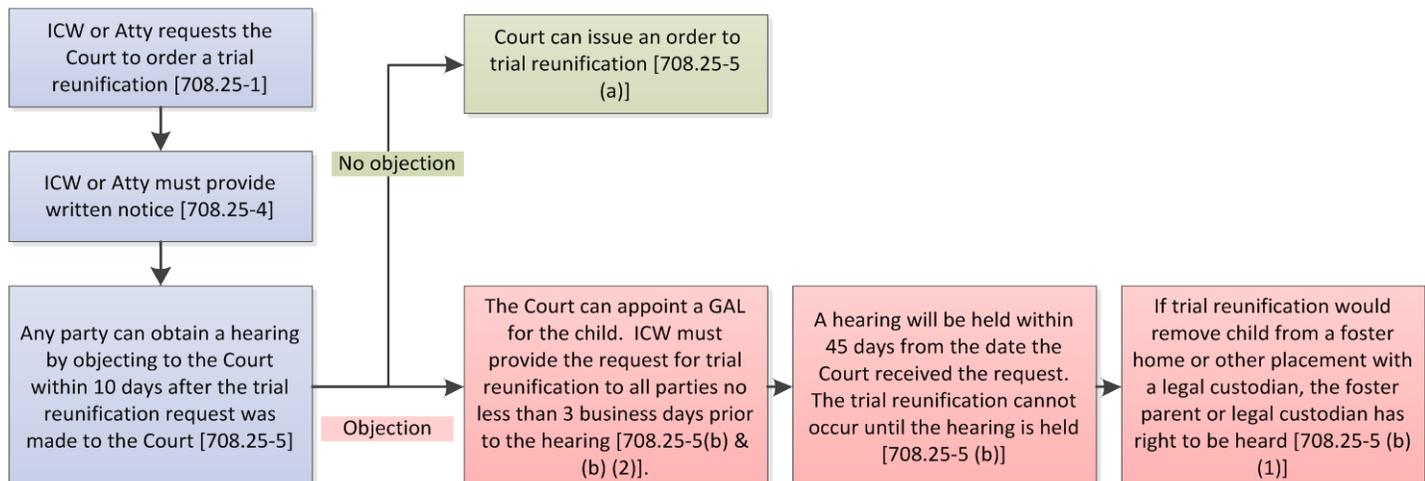
446 **14. Change in Placement.** The following flow chart shows the process for changing the placement
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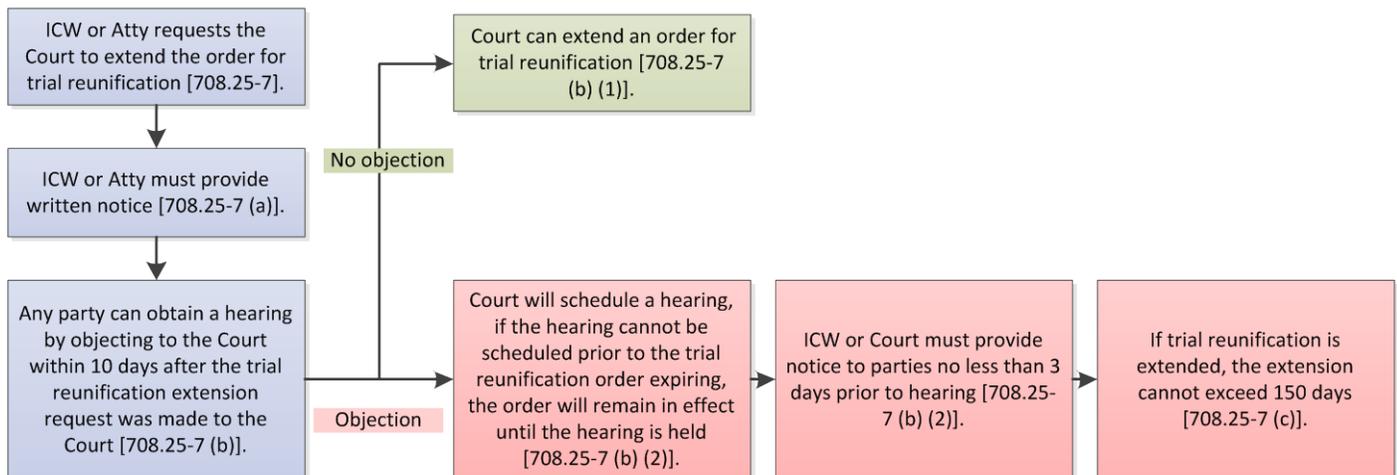
450 **15. Trial Reunification.** A trial reunification will happen when a child is placed outside of his/her
451 home but returns to the home of the parent, guardian or legal custodian on a temporary basis. A trial
452 reunification does not change placement as mentioned above. In addition, the trial reunification
453 cannot be used to immediately remove a child due to an emergency, in these cases; the Department
454 must proceed with an emergency change in placement. The following flow chart illustrates the trial
455 reunification legal proceeding:

Trial Reunification



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458 **a.** If the Court finds the trial reunification is in the child's best interest and satisfies the
459 objectives of the permanency plan, the Court must issue a trial reunification order. The trial
460 reunification must be terminated 90 days after the order was issued unless the order specifies
461 a shorter time period, an extension to the time period, or a revocation of the trial
462 reunification. An order cannot be extended past the expiration date of the original
463 dispositional order or any extension of the dispositional order [See *Children's Code*, 7 O.C.
464 708.25-6]. However, the Department can request an extension of the trial reunification if 1)
465 the trial reunification continues to be in the best interest of the child 2) the request is made no
466 later than 10 days prior to the expiration of the trial reunification order, and 3) the request is
467 filed with the Court and notice of the request is provided to the parties. The trial reunification
468 extension request is as follows:

Trial Reunification Extension469
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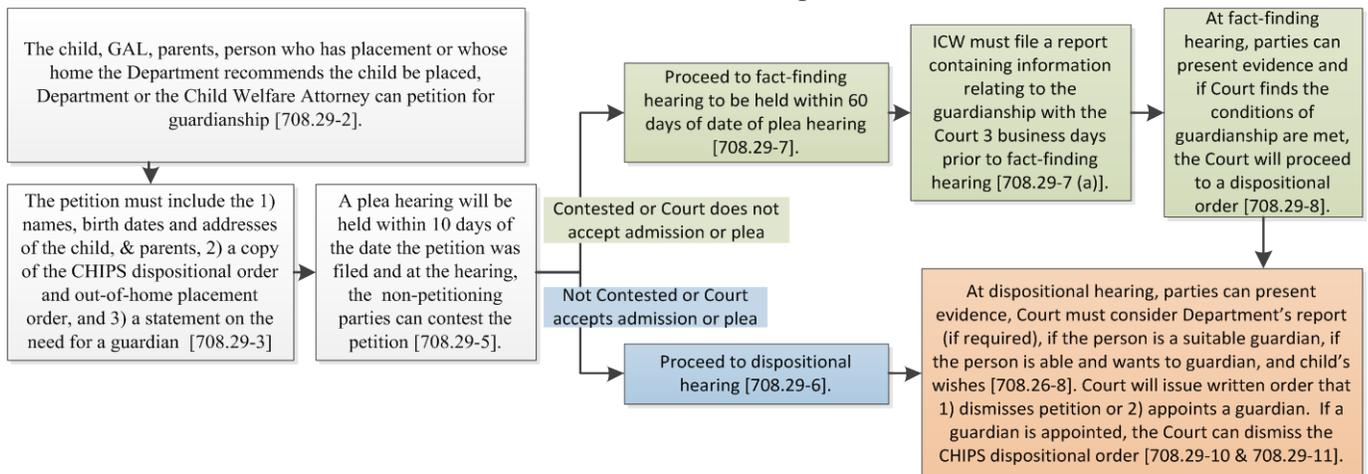
b. When the trial reunification period ends, the Department must either return the child to his/her out-of-home placement, request a change in placement to a new out-of-home placement, or request a change in placement which places the child in the trial reunification home [See *Children's Code*, 7 O.C. 708.25-7].

c. The Department can determine that the trial reunification is no longer in the child's best interests and revoke the trial reunification before the order expires. To do so the Department can remove the child, without Court order, and place the child in the previous out-of-home placement or place the child in a new out-of-home placement. If the child is placed in his/her previous out-of-home placement, the Department must submit a request for revocation with the Court and provide notice to the parties within three business days from the date the child was removed from the trial reunification placement. If the Department places the child in a new out-of-home placement, the Department must request a change in placement within three business days from when the child was removed. The trial reunification is revoked when the change in placement is granted. If a party objects to the Court within 10 days from when the request was received by the Court, the Court must hold a hearing. If no party objects, the Court can issue a revocation order [See *Children's Code*, 7 O.C. 708.25-8 and 708.25-9].

d. The Court cannot order a trial reunification in a home of an adult that has been convicted of 1st degree intentional homicide or 2nd degree intentional homicide of the parent or any crime against a child so long as the conviction has not been reversed, set aside, vacated or pardoned. However, if the trial reunification is in the child's best interest, the Court may order a trial reunification with the adult even though he/she has been convicted and not pardoned [See *Children's Code*, 7 O.C. 708.25-10].

16. CHIPS Guardianship. The Court can appoint a guardian for a child if certain conditions are present: child is in need of protection or services and is either placed outside the home or the Department recommends the child be placed with the guardian; the person nominated as guardian is the person the child is currently placed with or the person the Department recommends the child will likely be placed with for an extended period of time or until the child reaches 18 years of age; the person is willing and able to be the child's guardian; that termination of parental rights is not in the child's best interest; the child's parents are neglecting, refusing or unable to perform the duties of a guardian; and the Department made reasonable efforts to prevent the child from removal of his/her home and to return the child [See *Children's Code*, 7 O.C. 708.29-1]. This Code requires proposed guardians to be present at all guardianship hearing; however the Court can waive the appearance requirement for good cause [See *Children's Code*, 7 O.C. 708.29-4]. The CHIPS guardianship process is identified in the flow chart below:

CHIPS Guardianship



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- **Revising Guardianship Orders.** Anyone that can file a petition for guardianship can also request a revision to the guardianship order. In addition, the Court can also make a revision upon its own motion. The request or Court proposal must show there is a substantial change in circumstances and that revisions are in the best interest of the child. The Court can require the Department to file a report which contains information relating to the request or proposal and the report must be provided to the parties at least three business days prior to the hearing. The Court must hold a hearing if new information is available that affects the guardianship order, unless the parties enter into a stipulation and the Court approves [See Children's Code, 7 O.C. 708.30].

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- **Termination of Guardianship.** A guardianship order is in effect until the child reaches 18; or the date the child graduates high school or its equivalent or the date the child reaches 19; or the date the Court terminates the guardianship order. The parent can request the guardianship order be terminated so long as the parent is willing and able to carry out the duties of a guardian and that it is in the best interest of the child. The Court must hold a hearing on the termination request unless the parties enter into a stipulation and it is approved. The Court can require the Department to file a report containing information relating the request and a copy provided to the parties at least three business days prior to the hearing. Anyone that can petition for guardianship, or the Court by its own motion, can request/propose the guardianship appointment be terminated if the guardian is or has neglected, refused or cannot perform his/her guardianship duties. The Court must hold a hearing on the request. The guardianship order can also be terminated if the guardian submits his/her resignation and the it is accepted by the Court [See Children's Code, 7 O.C. 708.31].

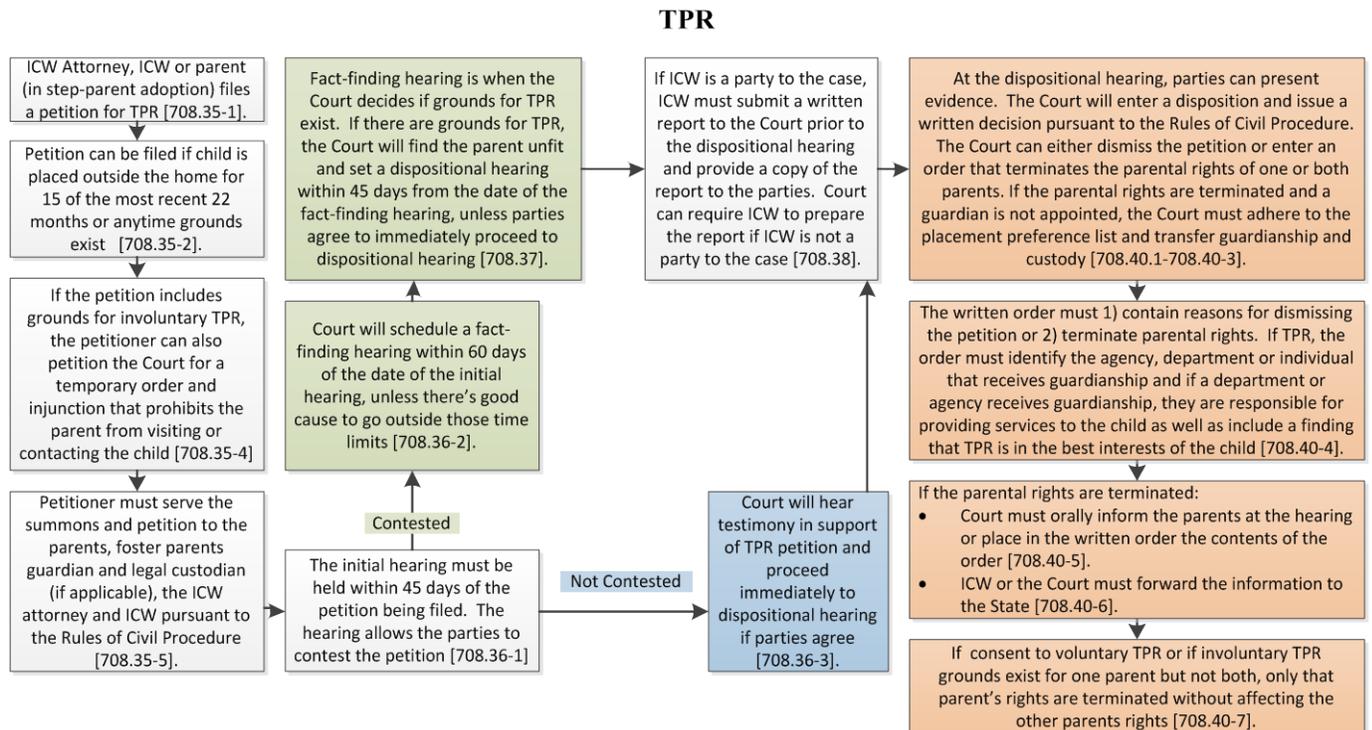
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17. Termination of Parental Rights. Terminating parental rights permanently severs all legal rights and duties between the parent(s) and child. However this may not affect the child's relationship with his/her biological extended family. In addition, the TPR will not have an impact on the child's enrollment status with the Nation, or interfere with the child's clanship, tradition and spiritual growth as a member of the Nation. The parents' rights can be terminated either voluntarily or involuntarily [See Children's Code, 7 O.C. 708.32].

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- **Voluntary TPR.** If a parent wishes to terminate their parental rights, the Court can conduct a dispositional hearing immediately so long as the Department submitted the TPR court report. The Judge must explain the effects of TPR, question the parent and/or allowed the party(ies)' counsel to question the parent. The parent must provide his/her consent at the hearing unless the Court allows the parent to appear by phone or using a live audiovisual device. If the Judge believes consent was informed and voluntary, he/she can accept the consent. If anyone

- 541 believes the parents do not have the capacity to voluntarily consent, the Court must determine
542 if the parent is capable of giving informed, voluntary consent. If the Court finds the parent is
543 not capable of providing voluntary consent, the Judge must dismiss the voluntary proceedings
544 without prejudice. However, this may not prohibit involuntary TPR proceedings from
545 occurring. A parent that began a voluntary TPR proceeding can withdraw his/her consent at
546 any time prior to the final TPR order. A parent cannot consent to TPR within ten calendar
547 days after the birth of a child [See Children's Code, 7 O.C. 708.33].
- 548 ■ *Involuntary TPR.* A parent may have his/her parental rights terminated if any of the
549 following occurs [See Children's Code, 7 O.C. 708.34]:
 - 550 ■ Abandonment
 - 551 ■ Relinquishment
 - 552 ■ Continuing need for protection or services
 - 553 ■ Continuing parental disability
 - 554 ■ Continuing denial of period of physical placement or visitation
 - 555 ■ Child abuse
 - 556 ■ Failure to assume parental responsibility
 - 557 ■ Incestuous parenthood
 - 558 ■ Homicide or solicitation to commit homicide of a parent
 - 559 ■ Parenthood as a result of sexual assault
 - 560 ■ Commission of a felony against a child
 - 561 ■ Prior involuntary TPR of another child
 - 562 ■ *TRP Proceedings.* The process for terminating parental rights is as follows:
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566 TPR Petition. A petition for TPR can be filed when the child is placed outside of his/her
567 home for 15 of the last 22 months except if the child is cared for by a fit and willing relative,
568 the permanency plan shows that TPR is not in the best interest of the child, the Department
569 failed to make reasonable efforts or failed to meet the time periods set forth in the
570 permanency plan or grounds for TPR do not exist. The petition must include the names, birth

571 dates, addresses, and tribal affiliation of the child and parents, a Uniform Child Custody
572 Jurisdiction and Enforcement Act affidavit, and a statement that consent will be given
573 voluntarily or identify the grounds for involuntary TPR [*See Children's Code, 7 O.C. 708.35-*
574 *2 & 207.35-3*].

575 The Court can issue a temporary order and injunction that prohibits the parent from
576 visiting or contacting the child if the Court determines it is in the child's best interest. This
577 injunction is effective according to its terms but cannot go beyond the date the Court
578 dismisses the petition for TPR or issues an order for TPR [*See Children's Code, 7 O.C.*
579 *708.33-6 (a)*].

580 Department's TPR Court Report. Whenever the Department is a party to the case or if the
581 Court orders, the Department must submit a written report to the Court prior to the
582 dispositional hearing and supply a copy of the report to the parties. The report must contain
583 the following:

- 584 ▪ Social history of the child and family including medical conditions
- 585 ▪ Statement of facts showing need for TPR
- 586 ▪ Steps the Department has taken to alleviate the issues for which the child was in need
587 of protection or services as well as the reasons why the child was not returned to
588 his/her home, if applicable
- 589 ▪ How the standards and factors were applied
- 590 ▪ Recommendations for TPR must include statement on how likely the child will be
591 adopted. This includes identifying 1) factors that might prevent adoption, 2) those
592 that may facilitate adoption, and 3) the Department must facilitate the adoption. If
593 adoption is not likely or is not in the best interest of the child, the report must include
594 a plan to place the child in a permanent family setting [*See Children's Code, 7 O.C.*
595 *708.38*].

596 Standards and Factors. When preparing the TPR dispositional order, the Court must consider
597 the best interests of the child. The best interests of the child include, but are not limited to,
598 the following:

- 599 ▪ Likelihood of the child's adoption after TPR
- 600 ▪ If the child will be raised in an environment that respects the child's race, culture, and
601 heritage
- 602 ▪ The age and health of the child at the dispositional hearing and when the child was
603 removed from the home
- 604 ▪ The child's substantial relationships with the parents and other family members and
605 if it is harmful to the child to sever those relationships
- 606 ▪ The wishes of the child
- 607 ▪ The duration of separation of the parent from the child
- 608 ▪ If the child will enter into a more stable and permanent family relationship as a result
609 of TPR [*See Children's Code, 7 O.C. 708.39*].

610 **18. Adoption.** This Code allows for two types of adoptions; customary and closed. All adoption
611 must be customary unless the Court determines there is good cause to use a closed adoption.
612 Customary adoption does not permanently deprive the child of his/her biological family but instead
613 provides a permanent home. Customary adoption orders must allow the relationship between the
614 adoptive parent and child to have the same rights, responsibilities, and legal consequences as the
615 relationship between the child and his/her biological parents; the child must have an absolute right to
616 information and knowledge about his/her biological family and Oneida heritage, if applicable; that
617 adoption does not prevent the child from inheriting from the biological parent and adoptive parent but
618 that the biological parent cannot inherit from the child; the biological parent can retain residual rights
619 based on agreement between the adoptive parent and biological parent or by Court order; and
620 adoption does not extinguish the child's relationship with his/her extended biological family [*See*
621 *Children's Code, 7 O.C. 708.41-1 and 708.41-2*].

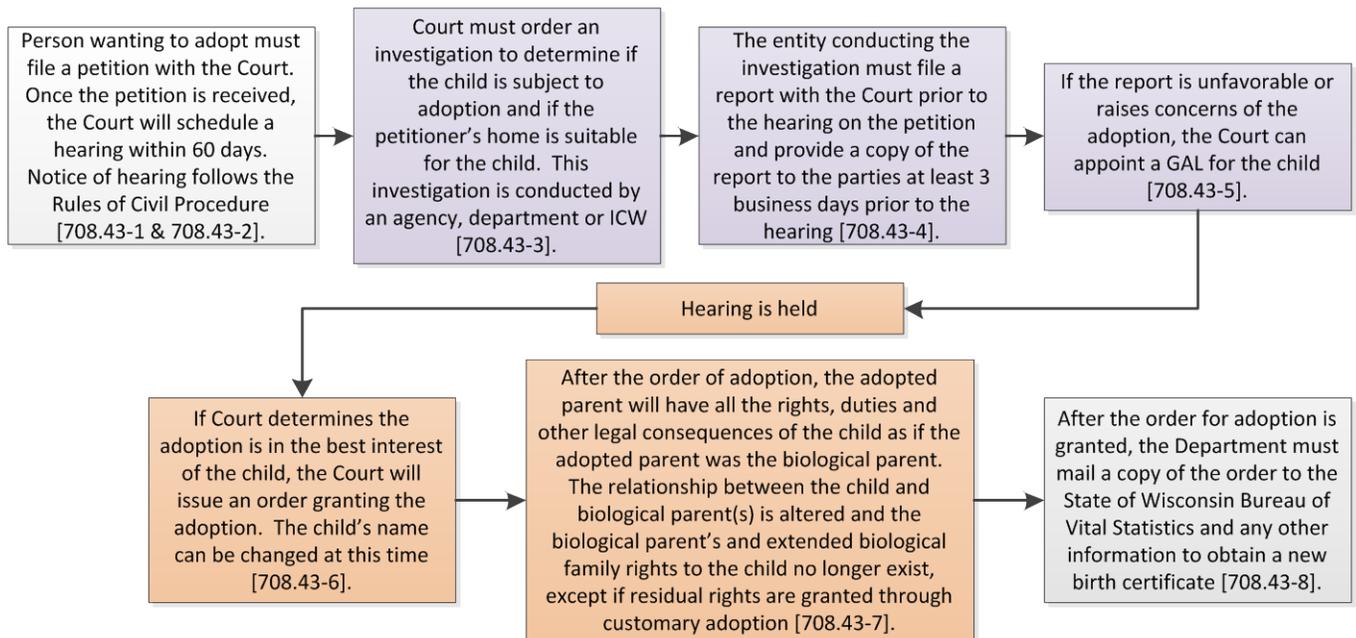
622 Closed adoptions happen when the Court decides a child needs to sever all ties between his/her
 623 biological family and needs a permanent home. When a closed adoption occurs, the relationship
 624 between the adopted parent and child will be the same as if the adopted parent was the child's
 625 biological parent; the relationship between the child and his/her biological parents are completely
 626 altered and all rights, duties and other legal consequences of those relationships no longer exist; the
 627 child's biological family is not entitled to or has access to any information regarding the child; and
 628 the child is entitled to information regarding his/her biological family when the child reaches the age
 629 of 18 [*See Children's Code, 7 O.C. 708.41-3*]. The comparison table shows the difference between
 630 customary adoption and closed adoption:
 631

Customary Adoption	Closed Adoption
Adopted parent has same rights as biological parent	Adopted parent has same rights as biological parent
Child has right to information and knowledge about his/her biological family and culture	Child must be entitled to information regarding his/her biological family when the child reaches 18
Adoption does not stop child from inheriting from biological parent but biological parent cannot inherit from child, adoptive parent can inherit from child	Does not address inheritance
Biological parent has residual rights to the child (communication, visitation, support/education, consultation, & other rights ordered by the Court)	Child's biological family is not entitled to have or access the child's information
Adoption does not extinguish relationship between child and child's extended biological family	Relationship between child and biological parents and extended biological family is completely altered and all rights, duties and legal consequences no longer exist

632
 633 This Code allows a child to be adopted if both parents are deceased, the parental rights of both
 634 parents are terminated, the parental rights of the only living parent are terminated or the person
 635 petitioning for adoption is the spouse of the parent and either the other parent is deceased or has
 636 his/her parental rights terminated. A married couple, spouse of the parent, or an adult can adopt a
 637 child. The Court can allow a person to adopt a child even if the person has not successfully cleared a
 638 background check or has a conviction that was not pardoned, forgiven, reversed, set aside, or vacated
 639 so long as the adoption is in the child's best interest [*See Children's Code, 7 O.C. 708.42*].

640 In order to start an adoption proceeding, a petition must be filed. The petition for adoption must
 641 include the names, birth dates, addresses, and tribal affiliations of the petitioner; child and biological
 642 parents of the child, as well as the name by which the child will be known; the relationship of the
 643 petitioner to the child; and a copy of the order that terminated the parental rights of the child's parents
 644 [*See Children's Code, 7 O.C. 708.43-1*]. The following chart shows the adoption procedure:

Adoption



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647 **19. Non-Compliance with Residual Rights Agreement.** Any party to a residual rights agreement can
648 petition the Court that approved the agreement to compel any person bound by the agreement to
649 comply with the agreement. The Court will set a date for a hearing and provide notice to all parties to
650 the agreement and may reappoint a GAL for the child. The Court can issue an order requiring the
651 person to comply the agreement and can find the person in contempt. The Court cannot revoke TPR
652 or an order of customary adoption because of non-compliance [See *Children's Code*, 7 O.C. 708.44].

653 **20. Peacemaking and Mediation.** The Court can refer the parties to peacemaking or mediation if the
654 parties agree. The parties cannot participate in peacemaking or mediation if doing so will cause
655 undue hardship or would endanger the health or safety of a party. If the parties do participate in
656 peacemaking or mediation based by the Court's referral, the Court must suspend time limits
657 established in this Code to allow time for the parties to go through the peacemaking or mediation
658 process [See *Children's Code*, 7 O.C. 708.45].

659 **21. Appeals.** Any order issued under this Code can be appealed to the Court of Appeals pursuant to
660 the Rules of Appellate Procedure [See *Child Welfare*, 7 O.C. 708.46].

661 **22. Liability.** This Code prevents liability from being attached to the Department and its workers
662 including the attorney or anyone else that acts under their authority for statements, acts or omissions
663 made in good faith while in the course of activities taken under this Code [See *Child Welfare*, 7 O.C.
664 708.47].

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666 SECTION 6. EFFECT ON EXISTING LEGISLATION

667 **A.** The Rules of Civil Procedure, Rules of Evidence, Rules of Appellate Procedure, and Child Support
668 may be used in conjunction with this Code.

669 **B.** This Code does not conflict with other laws of the Nation.

670 **C.** This Code will repeal the following BC Resolutions:

671 1. **Resolution # BC-09-25-81 Oneida Child Protective Board Ordinance and Resolution # BC-**
672 **01-14-15-A Amendment of BC Resolution # BC-09-25-81: Oneida Child Protective Board**
673 **Ordinance.** ICWA was enacted in 1978 and on September 25, 1981, OBC adopted the
674 Oneida Child Protective Board Ordinance (Ordinance) which delegated all authorities and
675 responsibilities for administering ICWA to the Board. BC Resolution 09-25-81 requires an

676 appeal of the Board's decision to be heard by the OBC and an appeal of the OBC's decision
 677 can be heard by the General Tribal Council (GTC) whose decision is final [*See Oneida Child*
 678 *Protective Board Ordinance, pg. 2, Be It Further Enacted Clause*]. However, this was
 679 amended by BC Resolution 01-14-15-A which states that the Oneida Child Protective Board
 680 Ordinance is amended to require that all appeals of the decisions of the Board be filed with
 681 the [Oneida] Court of Appeals pursuant to the Rules of Appellate Procedure.

682 The Ordinance establishing the Board states that the Board must follow the Oneida
 683 Children's Code and the Indian Child Welfare Act; however, a Children's Code was not
 684 developed until now. Under the new Code, the Board no longer has a role as cases will be
 685 brought forward by the Department. Adopting this Code will repeal BC Resolution 09-25-81
 686 and BC Resolution 01-14-15-A and dissolve the Board.

687 2. **Resolution # BC-10-07-81-A Appointing Members to the Oneida Child Protective Board.**
 688 This resolution states that the Oneida Child Protective Board be the administrative body
 689 vested with the authority over child custody proceedings [*See BC Resolution 10-07-81-A,*
 690 *Therefore Be It Resolved Clause*]. Because the Board will be dissolved by passage of this
 691 Code, it may be appropriate to repeal this resolution.

692 3. **Resolution # BC-05-24-84-C Definition of Extended Family Member.** The ICWA and
 693 policies and procedures of the Oneida Child Protective Board reference the Indian child's
 694 extended family as being the first preference in the placement of an Indian child and ICWA
 695 states that an extended family member must be defined by the laws or customs of the Indian
 696 child's tribe; therefore, BC Resolution 05-24-84-C adopted a definition of extended family
 697 member. The definition has been incorporated into the Code and the Code's adopting
 698 resolution will incorporate the definition for extended family; therefore, BC Resolution 05-
 699 24-84-C is no longer needed [*See Child Welfare, 7 O.C. 708.3-1 (q)*].

700 4. **Resolution # BC-12-10-03-A Oneida Child Protective Board Stipends.** This resolution set
 701 the Child Protective Board's stipends from \$50.00 to \$75.00 for each Board member that
 702 attends each regularly schedule, special or executive meeting with the Secretary of the Board
 703 receives an additional \$25.00 each meeting. In addition, the resolution states that each Board
 704 member that participates in a child care provider hearing receives a \$75.00 stipend; and the
 705 recording clerk will receive an additional \$25.00 for each child care provider hearing
 706 conducted pursuant to the Board's bylaws. Because the Board will be dissolved by passage
 707 of this Code, it may be appropriate to repeal this resolution.

708 5. **Resolution # BC-05-13-15-A Indian Child Welfare Act Policy.** ICWA allows an Indian
 709 tribe to establish a different order of placement preference for foster care placements and
 710 adoptive placements and the OBC believed it was critical to establish a policy statement to
 711 provide direction to the Oneida Child Protective Board, Department and OLO. In addition,
 712 this resolution established the placement preference as well as defines "best interest of the
 713 child". The placement preference listed in this resolution as well as the definition of "best
 714 interest of the child" have been incorporated into this Code [*See Children's, 7 O.C. 708.3-1*
 715 *(e) and 708.11-1*]. Unlike the resolution, the Code allows an order to deviate from the
 716 placement preference list if the party can show good cause by 1) a request from the child (age
 717 12 or older) or the child's parent, 2) extraordinary physical, mental or emotional health needs
 718 of the child requires highly specialized treatment services or 3) there is no suitable placement
 719 after diligent efforts have been made to place the child in the placement preference list [*See*
 720 *Children's Code, 7 O.C. 708.11-2*].

721 Furthermore, this resolution contains language that says for cases where the parent(s)
 722 are voluntarily terminating their parental rights, if no family or other Native home is available
 723 for adoptive placement, the Nation will not seek to intervene in the adoption proceeding [*See*
 724 *BC Resolution 05-13-15-A, Now Therefore Be It Resolved Clause, #4*]. This resolution refers
 725 to child welfare legal matters that are outside of the Nation's jurisdiction. This Code will
 726 allow the Nation to intervene when parents voluntarily terminate their parent rights even if no

727 family or other Native home is available for adoption for those cases fall under the Nation's
728 jurisdiction.

729 Lastly, the resolution states the Nation will continue to follow and adhere to Federal
730 Code, Court opinions which interpret Federal Code, the Bureau of Indian Affairs Guidelines,
731 and the Bureau of Indian Affairs Regulation [*See BC Resolution 05-13-15-A, Be It Finally*
732 *Resolved Clause*]. This Code does not include this language. Tribes are not bound by ICWA
733 and including this language would place added regulations on the OFC even though these
734 regulations do not necessary apply to tribal courts. However, there are many provisions
735 found in ICWA and WICWA that have been incorporated into this Code.

736 **D. Board Bylaws.** The Board's bylaws will no longer be in effect if this Code is adopted and the Board
737 is dissolved.

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739 SECTION 7. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR 740 OBLIGATIONS

741 **A. Impacts on Existing Rights.** In State court, an attorney is provided to the parties in child welfare
742 matters, this Code allows for parties to obtain counsel which includes an attorney or advocate at the
743 party's own expense. The General Tribal Council recently directed that a Legal Resource Center be
744 created to provide Tribal members and Tribal employees representation for any proceeding before the
745 Judiciary. If a party to a child welfare case before the Court is a non-Oneida, non-employee, he/she will
746 not be provided representation. These individuals can still seek assistance through Judicare and/or legal
747 aid. Furthermore, none of the current tribal Children's Codes researched do not provide counsel to the
748 parties, counsel may be obtained at the parties' expense.

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750 SECTION 8. ENFORCEMENT

751 **A.** Anyone that does not abide by a Court order can be placed in contempt. Anyone who is not in
752 compliance with the residual rights agreement can petition the Court to enforce the agreement. The
753 Court can issue an order demanding compliance or the Court can place the non-complying party in
754 contempt.

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756 SECTION 9. OTHER CONSIDERATIONS

757 **A.** The following personnel are needed to implement this Code:

758 **1. ICW Department.** After meeting with the Department, it was determined that the Department's
759 personnel needs to expand to implement this Code, the table below depicts the current personnel
760 compared to what is needed.

761

Position	Current	Needed	Total
Director	1 Family Support Services	1 ICW	1 ICW, 1 Family Support
Supervisor	1	1	1
Intake Worker (in house)	1 (does all intake duties)	1	1
Intake Worker (call 24/7)	0	2	2
On-going Worker	4	2	6
Parenting Specialist	1	1	2
Foster Care Coordinator	1	1	2
Security Officer	0	0.5*	0.5*

*a meeting will be scheduled to discuss the possibility of ICW and the Judiciary sharing a security officer.

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764 **2. OFC.** After meeting with the OFC, it was determined additional staff will be required to
765 implement this Code. The table (below) depicts the minimum staffing required to exercise
766 jurisdiction over child welfare legal issues:

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Position	Current	Needed	Total
OFC Judge	1	1	2
OFC Clerk	1	1	2

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a. **Judiciary.** The LOC may want to consider is the issue of court room space. The Judiciary currently has two court rooms. At this time, the OFC does not believe space is an issue; however, there are factors that could change in the future. These factors include, but are not limited to, General Tribal Council's directive to create a Legal Resource Center (Tribal members and Tribal employees will have access to representation which may result in more contested issues and longer hearings); a possible Traffic Code, Criminal Code and Public Peace law, all of which would utilize the court rooms and the addition of administrative hearings the Trial Court will perform due to transferring boards, committees, and commissions' hearing authority to the Trial Court. It is likely the Judiciary's workload will continue to increase which may require more court room space in the future.

b. **Judiciary Workload.** The following chart illustrates the Judiciary's filing numbers since 2008:

Number of Filings							
Year	OFC	Trial Court				Appellate	Peacemaking
		Trial	Garnishment	Debt	Small Claims		
2008	17	39	204	120	0	28	8
2009	170*	24	123	130	0	25	13
2010	551**	30	190	198	0	33	28
2011	606	17	142	128	0	30	44
2012	577	21	190	109	0	25	25
2013	649	19	212	103	0	19	26
2014	581	14	162	174	0	18	42
2015	492	6	133	40	4	19	58
2016	571	19	105	61	3	12	83
2017 ⁺	106	7	26	24	0	3	15

*five months of reports missing for OFC, actually number of filings is higher

**three months of reports missing for OFC, actually number of filings is higher

⁺ All numbers are through February 2017

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There are variables that impact the number of filings identified above. For example, in 2010, Brown County began transferring cases to the OFC. In 2013, Milwaukee County began transferring cases. Both of these events had an impact on the OFC's filing numbers. Another issue that impacts the number of filings for OFC is the staffing level at the Oneida Nation Child Support Agency. The table below shows the Judiciary's Hearing Numbers:

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Number of Hearings					
Year	OFC	Trial Court			
		Trial	Garnishment	Debt	Small Claims
2008	7	36	**	***	0
2009	70	47	**	***	0
2010	171	61	**	***	0
2011	300	27	**	***	0
2012	404	33	**	***	0
2013	383*	36	**	***	0
2014	509	20	**	***	0
2015	468	10	108	40	0
2016	490	21	116	56	1
2017 ⁺	85	6	25	11	1

*six weeks without hearings due to transition of Appeals Commission to OFC, **Hearings held in batches every 2nd & 4th Wednesday of the month, ***Hearings scheduled in batches as needed, ⁺ All numbers are through February 2017

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According to the OFC staff, the OFC held court one day per week when operating as the Oneida Appeals Commission; however, they are now averaging three to four days of court per week with some weeks having five days of court hearings. Family Court hearings last anywhere from 15 minutes to a full day. Because this Code allows parties to call and examine witnesses, child welfare hearings have the potential to last multiple days. Family Court cases will require additional staff to satisfactorily operate the Court.

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It is not anticipated that the workload of the OFC will decrease. This is mainly due to the number of child support cases that the OFC has exercised jurisdiction over. The table (right) shows the number of cases the Oneida Nation Child Support Agency has. Earlier this year, the agency had 2,861 cases. In most cases, a child support cases is up for a review hearing every two years. Many of these reviews require court hearings. Other child support cases come back sooner for modifications due to a change in employment, incarceration, or a number of other factors.

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The OFC anticipates that the number of child support cases will rise due to the transfer of cases from

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Milwaukee County and other counties within the State of Wisconsin. Milwaukee County has 614 potential transfer cases and 119 cases have transferred already. The OFC does not have statistics regarding the number of child support cases that may transfer from other counties.

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In addition to the child support cases, the OFC has experienced a rise in other contested matters, most notably divorces, paternity establishments, third party custody cases, and disputes regarding legal custody and physical placement. Peacemaking has helped but many of these contested issues end up in hearings.

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- b. **Implementation.** The LOC may want to consider pursuing the addition of a second OFC judge and clerk as soon as this Code is adopted and well before the Code's implementation date. This will allow the required preparations to be completed prior to the Code becoming effective. One of the more time consuming tasks associated with this Code will be the recruiting and training of GALs. As the GAL work pursuant to this Code will differ from the work done on the other Family Court matters, a training curriculum will have to be developed and time will have to be set aside to do several multiple day training sessions. Currently, GALs focus on issues such as allocating legal custody and recommending a physical placement schedule. As this Code deals with different issues including abuse, neglect, termination of parental rights, etc., the GALs will

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831 have to be trained to appropriately address the complexity of the cases and seriousness of the
832 issues. Additionally, court documents will need to be created such as the Uniform Child Custody
833 Jurisdiction and Enforcement Act affidavit and a temporary physical custody form [See
834 *Children's Code, 7 O.C. 708.35-3*]. A process for collecting GAL fees may also need to be
835 developed as currently the OFC is not collecting GAL fees due to the workload and lack of
836 process to collect the fees for those not subject to per capita attachment and wage garnishment.
837 In addition, the Department may need to hire additional staff prior to the effective date of this
838 Code in order to have the staff trained and ready to go prior to the Nation exercising jurisdiction
839 over child welfare matters.

840 B. The following infrastructure is needed to implement this Code:

841 1. **161 Agreements.** The Nation will need to enter into 161 agreements with both Brown and
842 Outagamie Counties. 161 agreements clarify relationships between tribes and the county in
843 providing health, safety and welfare to Indian children. The purpose of these agreements is to
844 provide and improve systems for services, referral, and mutual assistance between the tribes and
845 the counties. The Wisconsin Department of Health and Family Services will facilitate the
846 negotiation process between the tribes and the counties if requested. The Nation met with the
847 State in March of 2017, to discuss the contexts of the 161 agreements and a subcommittee was
848 formed. The subcommittee is currently meeting to discuss what out of home placements the
849 Nation and counties will be funding. It may be necessary to meet with Brown and Outagamie
850 County to discuss entering into a 161 agreement in order to implement this Code.

851 C. The following are policy considerations the LOC may want to address:

852 1. **GALs.** The Nation has a number of laws which address GALs [See *Children's Code, 7 O.C.*
853 *708.8, Oneida Family Court Rules, 8 O.C. 807, Rule 14, Rules of Civil Procedure, 8 O.C. 803.37*
854 *and Child Custody, Placement, and Visitation 7 O.C. 705.8*]. In addition, the Oneida Tribal
855 Judiciary Canons of Judicial Conduct state that GALs have judicial immunity—immunity from
856 civil liability [See *Oneida Tribal Judiciary Canons of Judicial Conduct, 8 O.C. 802, Limited*
857 *Judicial Immunity*]. Because multiple laws address GALs, the LOC may want to consider
858 removing the GAL sections from these laws and create a separate Guardian ad Litem law for the
859 purposes of avoiding duplications and providing a more convenient way to locate, among other
860 things, the roles, responsibilities, appointments and trainings required for GALs. If the LOC does
861 not wish to develop a separate GAL law, they may want to consider revising this section to refer
862 the reader to the Rules of Civil Procedure and any other laws, rules or policies governing the
863 conduct of GALs.

864 2. **Permanency Plan Review.** This Code requires the OFC to hold a hearing to review the
865 permanency plan no later than six months after the date the child was placed outside the home
866 and every six months thereafter for as long as the child is placed outside the home and is need of
867 protection or services [See *Children's Code, 7 O.C. 708.23-3*]. A Department of Children &
868 Families (DCF) memorandum dated June 4, 2008 regarding 161 Agreements requires that all
869 agreements include provisions related to permanency planning. The memo states that “It shall be
870 agreed that for each case to be funded, an administrative review or judicial hearing will be held in
871 accordance with State and Federal law or regulation as codified in s. 48.38 (5) and (5m), Wis.
872 Stats. [See *DCF memorandum, 06/04/2008, Guidelines for Implementation of Act 161*
873 *Agreements (Out-of-Home Placements of Indian Children by Tribal Courts), III, (I)*]. Wisconsin
874 law allows for either the court or a review panel, appointed by the Court, comprised of three
875 individuals that are not employed by the [Department] and who are not responsible for providing
876 services to the child or family [See *Wis. Stats. 48.38 (5)*]. This Code requires the Court to
877 conduct the permanency plan reviews. An alternative is to have a three-person panel conduct
878 these six month reviews. The LOC may want to determine if the OFC or a panel conduct these
879 reviews, and if it is decided to have a panel, provide direction on who could serve on this panel.

880 3. **Guardianship Law.** Other tribal Codes require their child welfare departments to transfer a child
881 to the appropriate jurisdiction if the child is believed to be incompetent and is under the custody

882 of the department. The transfer must be done before the child reaches the age of 18 for the
883 purposes of adult guardianship. The intent of this provision is to ensure an incompetent adult is
884 not released from placement when he/she reaches adulthood. If the LOC would like to add a
885 similar provision in the Code, then the LOC may want to consider developing a guardianship law
886 as the Nation does not have a law that addresses guardianship over a person or estate.

887 **D. Recommendations, alternatives and other information the LOC may want to consider:**

- 888 1. **Customary Adoptions.** According the DCF, customary adoptions are legal adoptions and
889 placement could be eligible for adoption assistance if the child and family meet the eligibility
890 criteria. Being a Native American child automatically qualifies a child as eligible for the Special
891 Needs Adoption Program. Please see the Adoption Assistance Forms Checklist/Routing
892 Instructions Tribal or Customary Adoption form for eligibility requirements.
- 893 2. **Adopting Resolution.** The LOC has identified the Code's effective date to be 15 months after the
894 adoption of the FY 2018 budget. This will allow appropriate staff to be hired and prepare for
895 implementation of the Code. Many issues will need to be addressed prior to implementing this
896 Code: 161 agreements, GAL recruitment and training, legal document development, staff
897 trainings, foster home recruitment, etc. In work meetings with the various affected entities, there
898 was a mutual understanding that the departments will need at least a year to prepare and create
899 the necessary infrastructure needed for successful implementation of this Code.
- 900 3. **Current ICWA Cases.** The LOC, in collaboration with both the Department and OFC have
901 decided to gradually transfer cases currently in Brown and Outagamie counties to the OFC. It has
902 been decided that within 60 days of the effective date of the Code, the Department and OFC will
903 meet to discuss how many cases may possibly transfer over. It was also decided that any case
904 that began in the county within three months of the effective date of the Code will transfer to the
905 OFC. However, any case that has been in the county longer than three months will remain with
906 the county. It should be noted that some parties that are currently in the county and wish to
907 transfer to OFC will be able to do so. The Department will also identify cases that they feel may
908 be better handled in OFC and request a transfer when the Code is effective. It is important to note
909 that the state and federal Indian Child Welfare Acts permit a case to transfer from state court to
910 tribal court. A transfer will not occur if 1) a parent of the child objects, 2) the court determines
911 there is good cause to deny the transfer, 3) the child is 12 years of age or over and objects, 4) the
912 evidence or testimony necessary to decide the case cannot be presented in tribal court without
913 under hardship to the parties or the witnesses, 5) or the child's tribe has not intervened.
- 914 4. **Ho Chunk Nation.** As of March 24, 2017, Ho Chunk Nation had 66 open child protection cases
915 (both CHIPS and consent decrees/66 children) that are under the jurisdiction of the tribe. They
916 also have three informal agreements. This number does not include current open ICW cases that
917 are in the counties. However, Ho Chunk Nation has been transferring more cases to their tribal
918 court as have many other tribes and counties because of the high number of cases related to the
919 current heroin/methamphetamine epidemic. Ho Chunk is modifying their Children and Family
920 Act to make timelines more apparent and to include safety standards. In addition, Ho Chunk has
921 a Prevention Program -funded by IV-B funding - that focuses on assisting the family to preserve
922 the family unit.
- 923 5. **Stockbridge Munsee.** Stockbridge Munsee has approximately 35 tribal cases/35 children. On
924 occasion Stockbridge Munsee will share a case with the county that involves enrolled children but
925 at this time there are no shared cases. According to their Indian Child Welfare Manager,
926 Stockbridge Munsee does not use the temporary physical custody (TPC) state form and has had
927 difficulty placing children into custody. When placing a tribal child into shelter care, the facility
928 requires the TPC state form. To prevent this from happening at Oneida, a TPC form may be
929 necessary. Stockbridge has a 161 agreement with Shawano County; however, in many cases
930 there are disagreements with the information and the decision on how the county case is screened
931 in or out. Stockbridge screens in 100% of their tribal cases and does the investigations. When
932 there is a safety or child protection services issue with a family, the child welfare manager will

933 ask the county to be involved, especially if foster care is involved in that the county pays for that
934 service. It should be noted that Stockbridge Munsee's child welfare department consists of one
935 employee who is both the ICW worker and director.

936 **5. Lac du Flambeau.** Lac du Flambeau has 112 child involved in current child welfare cases, of
937 those 38 are ICWA cases.

938 **6. Red Cliff.** Red Cliff has 35 children in child welfare cases.

939

940 *Please refer to financial impact statement for the fiscal impact of this Code.*

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Title 7. Children, Elders and Family - Chapter 708**CHILDREN'S CODE****Latiksha Laotilihwa***the children – their issues*

708.1.	Purpose and Policy	708.25.	Trial Reunification
708.2.	Adoption, Amendment, Repeal	708.26.	Revision of Dispositional Orders
708.3.	Definitions	708.27.	Extension of Dispositional Orders
708.4.	Scope	708.28.	Continuation of Dispositional Orders
708.5.	Jurisdiction	708.29.	Guardianship for Certain Children in Need of Protection or Services
708.6.	Nation's Child Welfare Attorney	708.30.	Revisions of Guardianship Order
708.7.	Indian Child Welfare Department Duties and Responsibilities	708.31.	Termination of Guardianship
708.8.	Guardian ad litem	708.32.	Termination of Parental Rights
708.9.	Advocate	708.33.	Voluntary Termination of Parental Rights
708.10.	Cultural Wellness Facilitator and Healer	708.34.	Grounds for Involuntary Termination of Parental Rights
708.11.	Order of Placement Preferences	708.35.	Petition for Termination of Parental Rights
708.12.	Notice of Petition	708.36.	Initial Hearing on the Termination of Parental Rights Petition
708.13.	Hearings (General)	708.37.	Fact Finding Hearing for a Termination of Parental Rights
708.14.	Discovery and Records	708.38.	Department's Termination of Parental Rights Report
708.15.	Taking a Child into Custody	708.39.	Standards and Factors
708.16.	Emergency Custody Hearing	708.40.	Dispositional Hearings for Termination of Parental Rights
708.17.	Petition for a Child in Need of Protection or Services	708.41.	Adoption
708.18.	Consent Decree	708.42.	Adoption Criteria and Eligibility
708.19.	Plea Hearing for a Child in Need of Protection or Services	708.43.	Adoption Procedure
708.20.	Fact-finding Hearing for a Child in Need of Protection or Services	708.44.	Non-Compliance with a Residual Rights Agreement
708.21.	Department's Disposition Report for a Child in Need of Protection or Services	708.45.	Peacemaking and Mediation
708.22.	Dispositional Hearing for a Child in Need of Protection or Services	708.46.	Appeals
708.23.	Permanency Plans	708.47.	Liability
708.24.	Change in Placement		

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2 708.1. Purpose and Policy

3 708.1-1. *Purpose.* The purpose of this law is to provide for the welfare, care, and protection of
4 Oneida children through the preservation of the family unit, while recognizing that in some
5 circumstances it may be in the child's best interest to not be reunited with his or her family.
6 Furthermore, this law strengthens family life by assisting parents in fulfilling their
7 responsibilities as well as facilitating the return of Oneida children to the jurisdiction of the
8 Nation and acknowledging the customs and traditions of the Nation when raising an Oneida
9 child.

10 708.1-2. *Policy.* It is the policy of the Nation to ensure there is a standard process for
11 conducting judicial proceedings and other procedures in which children and all other interested
12 parties are provided fair hearings in addition to ensuring their legal rights are recognized and
13 enforced, while protecting the public safety.

14

15 708.2. Adoption, Amendment, Repeal

16 708.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-
17 __.

18 708.2-2. This law may be amended or repealed by the Oneida Business Committee and/or
19 Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures
20 Act.

21 708.2-3. Should a provision of this law or the application thereof to any person or circumstances
22 be held as invalid, such invalidity shall not affect other provisions of this law which are
23 considered to have legal force without the invalid portions.

24 708.2-4. In the event of a conflict between a provision of this law and a provision of another
25 law, the provisions of this law shall control. Provided that, this law repeals the following:

- 26 (a) Resolution # BC-09-25-81 *Oneida Child Protective Board Ordinance*;
- 27 (b) Resolution # BC-10-07-81-A *Appointing Members to the Oneida Child Protective*
28 *Board*;
- 29 (c) Resolution # BC-05-24-84-C *Definition of Extended Family Member*;
- 30 (d) Resolution # BC-01-14-15-A *Amendment of Oneida Child Protective Board*
31 *Ordinance*;
- 32 (e) Resolution # BC-05-13-15 *Indian Child Welfare Act Policy*; and
- 33 (f) Resolution # BC-12 -10-03-A *Oneida Child Protective Boards Stipends*.

34 708.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
35

36 **708.3. Definitions**

37 708.3-1. This section shall govern the definitions of words and phrases used within this law. All
38 words not defined herein shall be used in their ordinary and everyday sense.

- 39 (a) "Abuse" means any of the following:
 - 40 (1) Physical injury inflicted on a child by other than accidental means;
 - 41 (2) Sexual assault;
 - 42 (3) Sexual exploitation of a child;
 - 43 (4) Prostitution or trafficking of a child;
 - 44 (5) Causing a child to view or listen to sexual activity or sexually explicit
45 materials;
 - 46 (6) Exposing a child to the manufacture, sale, or use of controlled substances;
47 and/or
 - 48 (7) Emotional damage for which the child's parent, guardian, or legal custodian
49 has neglected, refused, or been unable for reasons other than poverty to obtain the
50 necessary treatment or take steps to address the issue.
- 51 (b) "Advocate" means a person who is a non-attorney presented to the Court as the
52 representative or advisor to a party.
- 53 (c) "Alcohol and other drug abuse impairment" means a condition of a person which is
54 exhibited by characteristics of habitual lack of self-control in the use of alcoholic
55 beverages or controlled substances to the extent that the person's health is substantially
56 affected or endangered or the person's social or economic functioning is substantially
57 disrupted.
- 58 (d) "Attorney" means a person trained and licensed to represent another person in Court,
59 to prepare documents and to give advice or counsel on matters of law.
- 60 (e) "Best interest of the child" means the interest of a child to:
 - 61 (1) Have a full, meaningful, and loving relationship with both parents and family
62 as much as possible;
 - 63 (2) Be free from physical, sexual and emotional abuse;
 - 64 (3) Be raised in conditions that foster and encourage the happiness, security,
65 safety, welfare, physical and mental health, and emotional development of the
66 child;

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- 67 (4) Receive appropriate medical care;
68 (5) Receive appropriate education;
69 (6) Be raised in conditions which maximize the chances of the child becoming a
70 contributing member of society; and
71 (7) Be raised in an environment that is respectful of the child's race(s), culture(s),
72 and heritage(s).
- 73 (f) "Business day" means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding
74 holidays recognized by the Nation.
- 75 (g) "Child" means a person who is less than eighteen (18) years of age.
- 76 (h) "Clear and convincing evidence" means that a particular fact is substantially more
77 likely than not to be true.
- 78 (i) "Counsel" means an attorney or advocate presented to the Court as the representative
79 or advisor to a party.
- 80 (j) "Court" means the Oneida Nation Family Court, which is the branch of the Oneida
81 Nation Judiciary that has the designated responsibility to oversee family matters.
- 82 (k) "Court of competent jurisdiction" means a state or tribal court that has jurisdiction
83 and authority to do a certain act or hear a certain dispute.
- 84 (l) "Department" means the Oneida Nation Indian Child Welfare Department.
- 85 (m) "Disposition" means the Court's final ruling or decision on a case or legal issue.
- 86 (n) "Dispositional hearing" means a hearing for the Court to make its final
87 determination of a case or issue.
- 88 (o) "Emotional damage" means harm to a child's psychological or intellectual
89 functioning evidenced by one (1) or more of the following characteristics exhibited to a
90 severe degree:
- 91 (1) anxiety;
92 (2) depression;
93 (3) withdrawal;
94 (4) outward aggressive behavior; and/or
95 (5) a substantial and observable change in behavior, emotional response, or
96 cognition that is not within the normal range for the child's age and stage of
97 development.
- 98 (p) "Expert" means a person with special training, experience, or expertise in a field
99 beyond the knowledge of an ordinary person.
- 100 (q) "Extended family" means a person who has reached the age of eighteen (18) and who
101 is the child's grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece,
102 nephew, first, second, third or fourth cousin, or stepparent.
- 103 (r) "Fact-finding hearing" means a hearing for the Court to determine if the allegations in
104 a petition under this law are proved by clear and convincing evidence.
- 105 (s) "Fictive kin" means any person or persons who, to the biological parents of the child
106 at issue, have an emotional tie to that parent wherein they are like family.
- 107 (t) "Foster home" means any home which is licensed by Department and/or applicable
108 licensing agency and maintained by any individual(s) suitable for placement of children
109 when taken into custody or pending court matters.
- 110 (u) "Good cause" means adequate or substantial grounds or reason to take a certain
111 action, or to fail to take an action.

- 112 (v) "Group home" means any facility operated by a person required to be licensed by the
113 Department and/or applicable licensing agency for the care and maintenance of five (5) to
114 eight (8) children.
- 115 (w) "Guardian" means any person, agency or department appointed by the Court to care
116 for and manage the child in a particular case before the Court. A guardian has the right to
117 make major decisions affecting a child including education, religious and cultural
118 upbringing, the right to consent to marriage, to enlistment in the armed forces, to major
119 surgery and medical treatment and to adoption, or make recommendations as to adoption.
- 120 (x) "Guardian ad litem" means a person appointed by the Court to appear at any
121 peacemaking, mediation, or hearing and tasked with representing the best interest of the
122 person appointed for.
- 123 (y) "Holiday" means any holiday recognized by the Nation as identified in the Nation's
124 laws, rules and policies governing employment.
- 125 (z) "Indian Child Welfare Worker" means a person employed by the Nation in the
126 Indian Child Welfare Department tasked with the responsibility to carry out the duties,
127 objectives and provisions of this law as codified at 25 USC 1901.
- 128 (aa) "Legal custodian" means any person other than a parent or guardian to whom legal
129 custody of a child has been granted by court order and has the rights and responsibilities
130 for the following:
- 131 (1) To have physical custody of the child as determined by the Court, if physical
132 custody is not with the person having legal custody;
- 133 (2) To protect, educate and discipline the child so long as it is in the child's best
134 interest; and
- 135 (3) To provide the child with adequate food, shelter, education, ordinary medical
136 care and other basic needs, according to court order. In an emergency situation, a
137 custodian shall have the authority to consent to surgery as well as any other
138 emergency medical care needs.
- 139 (bb) "Mediation" means a method of dispute resolution that involves a neutral third party
140 who tries to help disputing parties reach an agreement.
- 141 (cc) "Nation" means the Oneida Nation.
- 142 (dd) "Neglect" means failure, refusal, or inability on the part of a caregiver, for reasons
143 other than poverty, to provide necessary care, food, clothing, medical or dental care, or
144 shelter so as to seriously endanger the physical health of the child.
- 145 (ee) "Parent" means the biological or adoptive parent of a child.
- 146 (ff) "Peacemaking" means a method of dispute resolution that is based on traditional
147 methods of resolving disputes and addresses the needs of rebuilding relationships
148 between people.
- 149 (gg) "Permanency Plan" means a plan designed to ensure that a child is reunified with his
150 or her family whenever appropriate, or that the child quickly attains a placement or home
151 providing long-term stability.
- 152 (hh) "Physical injury" includes, but is not limited to, any of the following:
- 153 (1) lacerations;
- 154 (2) fractured bones;
- 155 (3) burns;
- 156 (4) internal injuries;
- 157 (5) severe or frequent bruising;

- 158 (6) bodily injury which creates a substantial risk of death;
159 (7) bodily injury which causes serious permanent disfigurement;
160 (8) bodily injury which causes a permanent or protracted loss or impairment of
161 the function of any bodily member or organ; or
162 (9) any other serious bodily injury.
- 163 (ii) "Plea hearing" means a hearing to determine whether any party wishes to contest a
164 petition filed under this law.
- 165 (jj) "Probable cause" means there are sufficient facts and circumstances that would lead
166 a reasonable person to believe that something is true.
- 167 (kk) "Reasonable effort" means an earnest and conscientious effort to take good faith
168 steps to provide the services ordered by the Court which takes into consideration the
169 characteristics of the parent or child, the level of cooperation of the parent and other
170 relevant circumstances of the case.
- 171 (ll) "Relative" means any person connected with a child by blood, marriage or
172 adoption.
- 173 (mm) "Reservation" means all the land within the exterior boundaries of the
174 Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the
175 Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.
- 176 (nn) "Shelter care facility" means a non-secure place of temporary care and physical
177 custody for children, licensed by the Department and/or applicable licensing agency.
- 178 (oo) "Social history" means the social, economic, cultural and familial aspects of a person
179 and how those aspects affect the person's functioning and situation in life.
- 180 (pp) "Special treatment or care" means professional services which need to be provided
181 to a child or family to protect the well-being of the child, prevent out-of-home placement,
182 or meet the needs of the child.
- 183 (qq) "Stepparent" means the spouse or ex-spouse of a child's parent who is not a
184 biological parent of the child.
- 185 (rr) "Stipulation" means a formal legal acknowledgement and agreement made between
186 opposing parties prior to a pending hearing or trial.
- 187 (ss) "Substantial parental relationship" means the acceptance and exercise of significant
188 responsibility for the daily supervision, education, protection and care of a child.
- 189 (tt) "Termination of parental rights" means that, pursuant to a court order, all rights,
190 powers, privileges, immunities, duties and obligations existing between parent and child
191 are permanently severed.
- 192 (uu) "Treatment plan" means a plan or set of conditions ordered by the Court identifying
193 concerns and behaviors of a parent, guardian or legal custodian that resulted in a child to
194 be in need of protection or services, and the treatment services, goals and objectives to
195 address and remedy the concerns and behaviors of the parent, guardian or legal custodian.
- 196 (vv) "Warrant" means an order issued by a court commanding a law enforcement officer
197 to perform some act incident to the administration of justice.
198

199 **708.4. Scope**

200 708.4-1. This law shall apply to all child welfare cases and legal proceedings in which the
201 Nation has jurisdiction. Nothing in this law is meant to restrict or limit another court of
202 competent jurisdiction from hearing a matter involving an Indian child.
203

204 **708.5. Jurisdiction**

205 708.5-1. *Personal Jurisdiction.* The Court shall have personal jurisdiction over the following
206 individuals:

207 (a) *Jurisdiction over an Oneida Child.* The Court shall have personal jurisdiction over
208 any child who is present or resides within the boundaries of Brown and Outagamie
209 County and is enrolled or eligible for enrollment in the Nation.

210 (b) *Jurisdiction over a Non-Oneida Child.* The Court shall have personal jurisdiction
211 over any child not enrolled or eligible for enrollment in the Nation who is present or
212 resides within the boundaries of the Reservation and is a sibling of a child that is enrolled
213 or eligible for enrollment in the Nation if the child's parent(s), guardian or legal
214 custodian consents to the jurisdiction of the Court. Consent to the jurisdiction of the
215 Court can be given by any of the following:

216 (1) The parent(s), guardian or legal custodian knowingly and voluntarily provides
217 the Court with written consent to the jurisdiction of the Court; or

218 (2) The Court establishes on the record that the parent(s), guardian or legal
219 custodian knowingly and voluntarily provides the Court with verbal consent to the
220 jurisdiction of the Court.

221 708.5-2. *Jurisdiction over Children Alleged to be in Need of Protection or Services.* The Court
222 shall have jurisdiction over a child alleged to be in need of protection or services if personal
223 jurisdiction has been established and the child:

224 (a) is without a parent or guardian;

225 (b) has been abandoned;

226 (c) has a parent that relinquished custody of the child pursuant to the Nation's laws or
227 state law and has no other parent available to provide necessary care;

228 (d) has been the victim of abuse, including injury that is self-inflicted or inflicted by
229 another;

230 (e) is at substantial risk of becoming the victim of abuse, including injury that is self-
231 inflicted or inflicted by another, based on reliable and credible information that another
232 child in the home has been the victim of such abuse;

233 (f) has a parent or guardian who signs the petition requesting jurisdiction under this
234 subsection and is unable or needs assistance to care for or provide necessary special
235 treatment or care for the child, and the child has no other parent available to provide
236 necessary care;

237 (g) has a guardian who is unable or needs assistance to care for or provide necessary
238 special treatment or care for the child, but is unwilling or unable to sign the petition
239 requesting jurisdiction under this subsection;

240 (h) has been placed for care or adoption in violation of the Nation's laws or state law;

241 (i) is receiving inadequate care during the period of time a parent is missing,
242 incarcerated, hospitalized or institutionalized;

243 (j) is at least twelve (12) years of age, signs the petition requesting jurisdiction under this
244 subsection and is in need of special treatment or care which the parent, guardian or legal
245 custodian is unwilling, neglecting, unable or needs assistance to provide;

246 (k) has a parent, guardian or legal custodian neglects, refuses or is unable for reasons
247 other than poverty to provide necessary care, food, clothing, medical or dental care or
248 shelter so as to seriously endanger the physical health of the child;

249 (l) has a parent, guardian or legal custodian is at substantial risk of neglecting, refusing
250 or being unable for reasons other than poverty to provide necessary care, food, clothing,
251 medical or dental care or shelter so as to endanger seriously the physical health of the
252 child, based on reliable and credible information that the child's parent, guardian or legal
253 custodian has neglected, refused or been unable for reasons other than poverty to provide
254 necessary care, food, clothing, medical or dental care or shelter so as to endanger
255 seriously the physical health of another child in the home;

256 (m) is suffering emotional damage for which the parent, guardian or legal custodian has
257 neglected, refused or been unable and is neglecting, refusing or unable, for reasons other
258 than poverty, to obtain necessary treatment or to take necessary steps to improve the
259 symptoms;

260 (n) is suffering from an alcohol and other drug abuse impairment, exhibited to a severe
261 degree, for which the parent, guardian or legal custodian is neglecting, refusing or unable
262 to provide treatment; or

263 (o) is non-compliant with the Nation's or State's immunization laws.

264 708.5-3. *Jurisdiction over other Matters Relating to Children.* If jurisdiction has been
265 established under section 708.5-1 and section 708.5-2 the Court may:

266 (a) terminate parental rights to a child;

267 (b) appoint, revise, and/or remove a guardian; and

268 (c) hold adoption proceedings.

269 708.5-4. *Transfer of Cases from other Courts.* If personal jurisdiction has been established the
270 Court has jurisdiction over any action transferred to the Court from any court of competent
271 jurisdiction.

272 (a) While a case is being transferred to the Court from another court, any time limits
273 established by this law shall be tolled until the next hearing on the matter before the
274 Court.

275 708.5-5. *Transfer of Cases to other Courts.* The Court may transfer a case under this law to a
276 court of competent jurisdiction where the other court has a significant interest in the child and the
277 transfer would be in the best interest of the child.

278

279 **708.6. Nation's Child Welfare Attorney**

280 708.6-1. A Child Welfare attorney shall represent the Nation in all proceedings under this law.
281 The Child Welfare attorney shall be one of the following:

282 (a) An attorney from the Oneida Law Office;

283 (b) An attorney contracted by the Oneida Law Office; or

284 (c) An attorney contracted by the Department.

285

286 **708.7. Indian Child Welfare Department Duties and Responsibilities**

287 708.7-1. *Indian Child Welfare Worker.* The Indian Child Welfare Worker shall carry out the
288 duties and responsibilities set forth in this law which include, but are not limited to the
289 following:

290 (a) Receive, examine, and investigate complaints and allegations that a child is in need of
291 protection or services for the purpose of determining the appropriate response under this
292 law, which may include notifying law enforcement;

293 (b) Receive referral information, conduct intake inquiries, and determine whether to
294 initiate child welfare proceedings;

- 295 (c) Determine whether a child should be held pursuant to the emergency provisions of
296 this law;
- 297 (d) Make appropriate referrals of cases to other agencies when appropriate, and share
298 information with other agencies if their assistance appears to be needed or desirable;
- 299 (e) Maintain records;
- 300 (f) Enter into informal dispositions with families;
- 301 (g) Refer counseling or any other functions or services to the child and/or family as
302 designated by the Court;
- 303 (h) Identify and develop resources within the community that may be utilized by the
304 Department and Court;
- 305 (i) Make reasonable efforts to obtain necessary services for the child and family and
306 investigate and develop resources for the child and family to utilize;
- 307 (j) Accept legal custody of children when ordered by the Court;
- 308 (k) Make reports and recommendations to the Court;
- 309 (l) Make recommendations to the Nation's Child Welfare attorney;
- 310 (m) Request transfer from state court to the Nation's court when appropriate;
- 311 (n) Perform any other functions ordered by the Court within the limitations of the law;
- 312 (o) Develop appropriate plans and conduct reviews;
- 313 (p) Negotiate agreements for services, record sharing, referral, and funding for child
314 family service records within the Department;
- 315 (q) Provide measures and procedures for preserving the confidential nature of child and
316 family service records within the Department;
- 317 (r) Participate in continuing training, conferences and workshops pertinent to child
318 welfare issues;
- 319 (s) Explain the court proceedings to the child in language and terms appropriate to the
320 child's age and maturity level when a guardian ad litem is not appointed for a child;
- 321 (t) Maintain a knowledge and understanding of all relevant laws and regulations.
- 322 708.7-2. *Department.* In performing the duties set forth in this law, the Department shall:
- 323 (a) Identify and refer parties to resources in the community calculated to resolve the
324 problems presented in petitions filed in Court, such as the various psychiatric,
325 psychological therapeutic, counseling and other social services available within and
326 outside the Nation when necessary;
- 327 (b) Identify and refer parties to resources in the community designed to enhance the
328 child's potential as a member of the Nation;
- 329 (c) Investigate, inspect, and license foster homes, and monitor and supervise foster
330 homes and children in foster care;
- 331 (d) Adhere to the placement preference order stated in section 708.10; and
- 332 (e) Enter into memorandums of understanding and/or agreement with the Oneida Trust
333 Enrollment Committee and/or Department, Oneida Police Department, Oneida Nation
334 Child Support Agency and any other appropriate department in order to carry out the
335 provisions of this law;
- 336 (f) Share information with other social service and law enforcement agencies; and other
337 entities of the Nation as it pertains to children under the jurisdiction of this law.

338
339 **708.8. Guardian ad litem**

340 708.8-1. *Appointment.* The appointment of a guardian ad litem shall be as follows:

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- 341 (a) The Court may appoint a guardian ad litem for any child who is the subject of a child
342 in need of protection or services proceeding;
- 343 (b) The Court shall appoint a guardian ad litem for any child who is the subject of a
344 proceeding to terminate parental rights, whether voluntary or involuntary, for a child who
345 is the subject of a contested adoption proceeding, and for a child who is the subject of a
346 contested guardianship proceeding;
- 347 (c) The Court shall appoint a guardian ad litem for a minor parent petitioning for the
348 voluntary termination of their parental rights; and
- 349 (d) A guardian ad litem may be appointed for any other circumstance the Court deems
350 necessary.

708.8-2. *Qualifications.*

- 351 (a) A guardian ad litem shall be an adult who:
- 352 (1) is at least twenty one (21) years of age;
- 353 (2) is currently certified as a guardian ad litem and in good standing;
- 354 (3) has never been convicted of a felony unless the person received a pardon or
355 forgiveness; and
- 356 (4) has never been convicted of any crime against a child.
- 357 (b) No person shall be appointed guardian ad litem in that proceeding who:
- 358 (1) has a personal interest in the outcome of the case, a party to the proceeding,
359 or any other interest that has the potential to corrupt a person's motivation or decision
360 making, because of an actual or potential divergence between the person's self-interests,
361 and the best interests of the case;
- 362 (2) appears as counsel or an advocate in the proceeding on behalf of any party; or
- 363 (3) is related to a party of the proceeding, the Judge for the proceeding, or an
364 appointing Judge by blood, marriage, adoption or related by a social tie that could
365 be reasonably interpreted as a conflict of interest.
- 366 (c) A guardian ad litem may be recognized as certified by the Court if he or she:
- 367 (1) has completed guardian ad litem training provided by the Court, another
368 Indian tribe, or a state; or
- 369 (2) is recognized as a certified guardian ad litem by another jurisdiction.

708.8-3. *Responsibilities.* The guardian ad litem has none of the rights or duties of a general
372 guardian. The guardian ad litem shall:

- 373 (a) investigate and review all relevant information, records and documents, as well as
374 interview the child, parent(s), social workers, teachers and all other relevant persons to
375 gather facts when appropriate;
- 376 (b) consider the importance of the child's culture, heritage and traditions;
- 377 (c) consider, but shall not be bound by, the wishes of the child or the positions of others
378 as to the best interests of the child;
- 379 (d) explain the role of the guardian ad litem and the court proceedings to the child in
380 language and terms appropriate to the child's age and maturity level;
- 381 (e) provide a written or oral report to the Court regarding the best interests of the child,
382 including conclusions and recommendations and the facts upon which they are based;
- 383 (f) recommend evaluations, assessments, services and treatment of the child and the
384 child's family when appropriate;
- 385 (g) inform the court of any concerns or possible issues regard the child or the child's
386 family;
- 387 (h) represent the best interests of the child;

- 388 (i) perform other duties as directed by the Court; and
389 (j) comply with all laws, policies and rules of the Nation governing the conduct of a
390 guardian ad litem.

391 708.8-4. *Compensation.* The guardian ad litem shall be compensated at a rate that the Court
392 determines is reasonable. The Court shall compensate the guardian ad litem for his or her fees.
393 The parties shall reimburse the Court for the guardian ad litem fees. The Court may apportion
394 the amount of reimbursement each party shall pay based on the ability to pay or assess the cost
395 equally between the parties. The Court may determine an appropriate time frame for the
396 reimbursement to occur. The Court may waive the guardian ad litem expense if the cost of the
397 guardian ad litem will impose an immediate and substantial hardship on the parties.
398

399 **708.9. Advocate**

400 708.9-1. The parent, guardian and legal custodian of a child has the right to obtain an advocate to
401 represent and advise him or her throughout any proceeding under this law at his or her own
402 expense.

403 708.9-2. *Qualifications.*

- 404 (a) An advocate shall be an adult who:
405 (1) is at least twenty one (21) years of age;
406 (2) is admitted to practice before the Oneida Judiciary;
407 (2) has never been convicted of a felony unless the person received a pardon or
408 forgiveness; and
409 (3) has never been convicted of any crime against a child.

410 708.9-3. An advocate shall comply with all laws, rules and policies of the Nation governing
411 advocates.
412

413 **708.10 Cultural Wellness Facilitator and Healer**

414 708.10-1. The Department may utilize a Cultural Wellness Facilitator and Healer throughout all
415 child welfare proceedings.

416 708.10-2. The Cultural Wellness Facilitator and Healer may provide:

- 417 (a) wellness sessions utilizing culturally based and appropriate healing methods;
418 (b) training on Oneida culture, language and traditions; and
419 (c) and any other service that may be necessary.
420

421 **708.11. Order of Placement Preferences**

422 708.11-1. The following order of placement preferences shall be followed when it is necessary to
423 place a child outside of the home under this law:

- 424 (a) A member of the child's immediate or extended family;
425 (b) A family clan member;
426 (c) A member of the Nation;
427 (d) Descendants of the Nation;
428 (e) A member of another federally recognized tribe;
429 (f) Fictive kin within the Nation community;
430 (g) Fictive kin outside the Nation community; or
431 (h) Any other person or persons not listed above.

432 708.11-2. The order of placement preferences listed in section 708.11-1. are prioritized from the
433 most preference given to a child placed in a home in accordance with section 708.11-1(a) and the

434 least amount of preference given to a child placed in a home in accordance with section 708.11-
435 1(h).

436 708.11-3. In order to deviate from the placement preferences listed in section 708.11-1, the Court
437 shall consider the best interest of the child when determining whether there is good cause to go
438 outside the placement preference.

439 (a) Good cause to go outside the placement preferences shall be determined based on any
440 of the following:

441 (1) When appropriate, the request from the child's parent or the child, when the
442 child is age twelve (12) or older;

443 (2) Any extraordinary physical, mental or emotional health needs of the child
444 requiring highly specialized treatment services as established by an expert;

445 (3) The unavailability of a suitable placement after diligent efforts have been
446 made to place the child in the placement preference listed in section 708.11-1; or

447 (4) Any other reason deemed by the Court to be in the best interest of the child.

448 (b) The party requesting to deviate from the placement preferences listed in 708.11-1 has
449 the burden of establishing good cause.

450

451 **708.12. Notice of Petition**

452 708.12-1. Petitions alleging that a child is in need of protection or services may be given to the
453 parties directly by the Nation's Child Welfare attorney or the Indian Child Welfare Worker or
454 served on the parties pursuant to the Oneida Judiciary Rules of Civil Procedure.

455 708.12-2. Petitions for termination of parental rights, guardianship, and adoption shall be served
456 on all other parties pursuant to the Oneida Judiciary Rules of Civil Procedure.

457 708.12-3. All parties shall be notified of all subsequent hearings under this law by first-class
458 mail to the recently verified last-known address of the party with the purpose of providing the
459 parties an opportunity to be heard.

460

461 **708.13. Hearings (General)**

462 708.13-1. If the Court finds that it is in the best interest of the child, the Court may exclude the
463 child from participating in a hearing conducted in accordance with this law.

464 708.13-2. The Oneida Judiciary Rules of Evidence are not binding at emergency custody
465 hearings, dispositional hearings, or a hearing about changes in placement, revision of
466 dispositional orders, extension of dispositional orders, or termination of guardianship orders. At
467 those hearings, the Court shall admit all testimony having reasonable probative value, but shall
468 exclude immaterial, irrelevant, or unduly repetitious testimony. Hearsay evidence may be
469 admitted if it has demonstrable circumstantial guarantees of trustworthiness. The Court shall
470 give effect to the rules of privilege recognized by laws of the Nation. The Court shall apply the
471 basic principles of relevancy, materiality, and probative value to proof of all questions of fact.

472 708.13-3. If an alleged father appears at a hearing under this law, the Court may refer the matter
473 to the Oneida Nation Child Support Agency to adjudicate paternity. While paternity is being
474 established, the Court shall enter an order finding good cause to suspend the time limits
475 established under this law.

476 708.13-4. At any time the Court or the Department may refer the matter to the Nation's Child
477 Support Agency.

478

708.14. Discovery and Records

480 708.14-1. Upon written request, the parties and their counsel shall have the right to inspect, copy
481 or photograph social, psychiatric, psychological, medical, and school reports, and records
482 concerning the child including reports of preliminary inquiries, predisposition studies and
483 supervision records relating to the child which are in the possession of the Nation's Child
484 Welfare attorney or the Department that pertain to any case under this law.

485 708.14-2. If a request for discovery is refused, the person may submit an application to the Court
486 requesting an order granting discovery. Motions for discovery shall certify that a request for
487 discovery has been made and refused.

488 708.14-3. If the discovery violates a privileged communication or a work product rule, the Court
489 may deny, in whole or part, otherwise limit or set conditions on the discovery authorized.

490 708.14-4. The identity of the individual that initiated the investigation by contacting the
491 Department, shall be redacted in all documents that are made available to the parties.

492 708.14-5. In addition to the discovery procedures permitted under this law, the discovery
493 procedures permitted under the Oneida Judiciary Rules of Civil Procedure shall apply in all
494 proceedings under this law.

495

708.15. Taking a Child into Custody

497 708.15-1. *Grounds for Taking a Child into Custody.* A child may be taken into custody without
498 a Court order by an Indian Child Welfare Worker or law enforcement officer if there are
499 reasonable grounds to believe:

500 (a) A warrant for the child's apprehension has been issued by the Court or another court
501 of competent jurisdiction to take the child into custody;

502 (b) The child is suffering from illness or injury or is in immediate danger from his or her
503 surroundings and removal from those surroundings is necessary; and/or

504 (c) The child has violated the conditions of an order issued pursuant to this law.

505 708.15-2. The Court may enter an order directing that a child be taken into custody upon a
506 showing satisfactory to the judge that the welfare of the child demands that the child be
507 immediately removed from his or her present custody.

508 708.15-3. A person taking the child into custody, under this section, shall immediately attempt
509 to notify the parent(s), guardian(s), and legal custodian(s) of the child by the most practical
510 means. Attempts to satisfy notification shall continue until either the parent(s), guardian(s), and
511 legal custodian(s) of the child is notified, or the child is delivered to an Indian Child Welfare
512 Worker, whichever occurs first. If the child is delivered to the Indian Child Welfare Worker
513 before the parent(s), guardian(s), and legal custodian(s) is notified, the Indian Child Welfare
514 Worker, or another person at his or her direction, shall continue the attempt to notify until the
515 parent(s), guardian(s), and legal custodian(s) of the child is notified.

516 708.15-4. Once the child is taken into custody and turned over to the care of the Department, the
517 Department shall make every effort to release the child immediately to the child's parent(s),
518 guardian(s), and legal custodian(s), so long as it is in the child's best interest and the parent(s),
519 guardian(s), and legal custodian(s) is willing to receive the child.

520 708.15-5. *Probable Cause for Taking a Child into Custody.* A child may be held in custody if
521 the Indian Child Welfare Worker determines the child is within the jurisdiction of the Court and
522 probable cause exists to believe any of the following if the child is not held in custody:

523 (a) The child will cause injury to himself or herself or be subject to injury by others;

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524 (b) The child will be subject to injury by others, based on a determination that if another
525 child in the home is not held that child will be subject to injury by others;

526 (c) The parent, guardian or legal custodian of the child or other responsible adult is
527 neglecting, refusing, unable or unavailable to provide adequate supervision and care, and
528 that services to ensure the child's safety and well-being are not available or would be
529 inadequate;

530 (d) The child meets the criteria for probable cause for taking a child into custody
531 specified in section 708.15-5(c), based on a determination that another child in the home
532 meets any of the criteria; or

533 (e) The child will run away or be taken away so as to be unavailable for proceedings of
534 the Court.

535 708.15-6. *Holding a Child in Custody.* A child held in custody may be held in any of the
536 following places as long as the places are in the child's best interest and all people residing or
537 regularly visiting the premises have cleared a background check:

538 (a) The home of a relative, except that a child may not be held in the home of a relative
539 that has been convicted of the first-degree intentional homicide or the second-degree
540 intentional homicide of a parent of the child, or any crime against a child, and the
541 conviction has not been pardoned, forgiven, reversed, set aside or vacated, unless the
542 person making the custody decision determines by clear and convincing evidence that the
543 placement would be in the best interests of the child. The person making the custody
544 decision shall consider the wishes of the child in making that determination;

545 (b) A licensed foster home;

546 (c) A licensed group home;

547 (d) A non-secure facility operated by a licensed child welfare agency;

548 (e) A licensed private or public shelter care facility; or

549 (f) The home of a person not a relative, if the placement does not exceed thirty (30) days,
550 though the placement may be extended for up to an additional thirty (30) days by the
551 Indian Child Welfare Worker, and if the person has not had a child care license refused,
552 revoked, or suspended within the last two (2) years.

553 708.15-7. When holding a child in custody for emergency placement the use of the preferences
554 for placement stated in section 708.10-1 are preferred, but not mandatory. If the preferences for
555 placement are not followed, the Department shall try to transition that child into a home that fits
556 the order of preferences for placement as quickly as deemed appropriate by the Department.

557 708.15-8. If a child is held in custody, the Indian Child Welfare Worker shall notify the child's
558 parent(s), guardian(s), and legal custodian(s) of the reasons for holding the child and of the
559 child's whereabouts except when the Indian Child Welfare Worker believes that notice would
560 present imminent danger to the child. If the parent, guardian, or legal custodian is not
561 immediately available, the Indian Child Welfare Worker or another person designated by the
562 worker shall provide notice as soon as possible.

563 708.15-9. The Indian Child Welfare Worker shall also notify the parent, guardian, and legal
564 custodian of the following:

565 (a) the date, time and place of the emergency custody hearing;

566 (b) the nature and possible outcomes of the hearing;

567 (c) the right to present and cross-examine witnesses; and

568 (d) the right to retain counsel at his or her own expense.

569 708.15-10. When the child is age twelve (12) or older, the Indian Child Welfare Worker shall
570 notify the child of the date, time, and place and the nature and possible outcomes of the
571 emergency custody hearing.

572

573 **708.16. Emergency Custody Hearing**

574 708.16-1. If a child who has been taken into custody under section 708.15-5 is not released, a
575 hearing to determine whether the child shall continue to be held in custody under the criteria of
576 probable cause for taking a child into custody under section 708.15-5(a)-(e) shall be conducted
577 by Court as soon as possible but no later than seventy-two (72) hours of the time the decision to
578 hold the child was made, excluding Saturdays, Sundays, and holidays. By the time of the
579 hearing, a petition for a child in need of protection or services under section 708.17 shall be filed
580 unless the Department seeks and receives an extension pursuant to section 708.16-2. The child
581 shall be released from custody if a hearing is not held within the specified timelines.

582 708.16-2. If no petition has been filed by the time of the hearing, a child may be held in custody
583 with approval of the Court for an additional seventy-two (72) hours from the time of the hearing,
584 excluding Saturdays, Sundays, and holidays, only if, as a result of the facts brought forth at the
585 hearing, the Court determines that probable cause exists to believe any of the following:

586 (a) That additional time is required to determine whether the filing of a petition initiating
587 proceedings under this law is necessary;

588 (b) That the child is an imminent danger to himself or herself or to others; or

589 (c) The parent, guardian, and legal custodian of the child or other responsible adult is
590 neglecting, refusing, unable, or unavailable to provide adequate supervision and care.

591 708.16-3. The Court may grant a one-time extension under section 708.16-2 for a petition. In
592 the event a petition is not filed within the extension period, the Court shall order the child's
593 immediate release from custody.

594 708.16-4. Prior to the start of the hearing, the Court shall provide a copy of the petition to the
595 parent, guardian, and legal custodian if present, and to the child if he or she is twelve (12) years
596 of age or older.

597 708.16-5. Prior to the start of the hearing, the Court shall inform the parent, guardian, or legal
598 custodian of the following:

599 (a) allegations that have been made or may be made;

600 (b) the nature and possible outcomes of the hearing and possible future hearings;

601 (c) the right to present and cross-examine witnesses; and

602 (d) the right to retain counsel at his or her own expense.

603 708.16-6. If present at the hearing, the Court may permit the parent to provide the names and
604 other identifying information of three (3) relatives of the child or other individuals eighteen (18)
605 years of age or older whose homes the parent wishes the Court to consider as placements for the
606 child. If the parent does not provide this information at the hearing, the Department shall permit
607 the parent to provide the information at a later date.

608 708.16-7. All orders to hold a child in custody shall be in writing and shall include all of the
609 following:

610 (a) A finding that continued placement of the child in his or her home would be contrary
611 to the best interests of the child;

612 (b) A finding that the Department and/or anyone else providing services to the child had
613 reasonable grounds to remove the child from the home based on the child's best interest;

614 (c) A finding that the Department has made reasonable efforts to prevent the removal of
615 the child from the home, while assuring that the child's best interest are the paramount
616 concerns;

617 (d) The Department made reasonable efforts to make it possible for the child to return
618 safely home; and

619 (e) If the child has one (1) or more siblings, who have also been removed from the home,
620 a finding as to whether the Department has made reasonable efforts to place the child in a
621 placement that enables the sibling group to remain together, unless the Court determines
622 that a joint placement would be contrary to the safety or well-being of the child or any of
623 those siblings, in which case the Court shall order the Department make reasonable
624 efforts to provide for frequent visitation or other ongoing interaction between the child
625 and the siblings, unless the Court determines that such visitation or interaction would be
626 contrary to the safety or well-being of the child or any of those siblings.

627 708.16-8. An order to hold a child in custody remains in effect until a dispositional order is
628 granted, the petition is withdrawn or dismissed, or the order is modified or terminated by further
629 order of the Court.

630 708.16-9. An order to hold a child in custody may be re-heard upon motion of any party if, in
631 the Court's discretion, good cause is found, whether or not counsel was present.

632

633 **708.17. Petition for a Child in Need of Protection or Services**

634 708.17-1. The Nation's Child Welfare attorney or the Department shall initiate proceedings
635 under this section by filing a petition with the Court, signed by a person who has knowledge of
636 the facts alleged or is informed of them and believes them to be true.

637 708.17-2. The petition shall include the following:

638 (a) The name, birth date, address, and tribal affiliation of the child;

639 (b) The names, birth dates, addresses, and tribal affiliation of the child's parent, guardian,
640 legal custodian or spouse, if any; or if no such person can be identified, the name and
641 address of the nearest relative;

642 (c) Whether the child is in custody, and, if so, the place where the child is being held and
643 the date and time he or she was taken into custody unless there is reasonable cause to
644 believe that such disclosure would result in imminent danger to the child or legal
645 custodian;

646 (d) A Uniform Child Custody Jurisdiction and Enforcement Act affidavit;

647 (e) A plain and concise statement of facts upon which the allegations are based, including
648 the dates, times, and location at which the alleged acts occurred. If the child is being held
649 in custody outside his or her home, the statement shall include information showing that
650 continued placement of the child in the home would be contrary to the welfare of the
651 child and the efforts that were made to prevent the removal of the child, while assuring
652 that the child's health, welfare, and safety are the paramount concerns; and

653 (f) Any other information as deemed necessary by the Court.

654 708.17-3. The petition shall state if any of the facts required for a petition are not known or
655 cannot be ascertained by the petitioner.

656 708.17-4. A petition may be amended at any time at the discretion of the Court. An amended
657 petition may be given to the parties directly by the Nation's Child Welfare attorney or the Indian Child
658 Welfare Worker or served on the parties pursuant to the Oneida Judiciary Rules of Civil Procedure.

659

660 **708.18. Consent Decree**

661 708.18-1. *Consent Decree.* At any time after the filing of a petition pursuant to section 708.17
662 and before the entry of judgment, the Court may suspend the proceedings and place the child
663 under supervision in the home or present placement of the child. The Court may establish terms
664 and conditions applicable to the child and the child's parent, guardian or legal custodian. The
665 order under this section shall be known as a consent decree and must be agreed to by the child
666 who is twelve (12) years of age or older, the parent, guardian or legal custodian, and the person
667 filing the petition. The consent decree shall be reduced to writing and given to the parties.

668 708.18-2. *Requirements of a Consent Decree.* If at the time the consent decree is entered into
669 the child is placed outside the home and if the consent decree maintains the child in that
670 placement, the consent decree shall include all of the following:

671 (a) A finding that placement of the child in his or her home would be contrary to the
672 welfare of the child;

673 (b) A finding as to whether the Department has made reasonable efforts to prevent the
674 removal of the child from the home, while assuring that the child's health and safety and
675 best interests are the paramount concerns;

676 (c) If a permanency plan has previously been prepared for the child, a finding as to
677 whether the Department has made reasonable efforts to achieve the permanency goal of
678 the child's permanency plan; and

679 (d) If the child has one or more siblings who have also been removed from the home, the
680 consent decree shall include a finding as to whether the Department has made reasonable
681 efforts to place the child in a placement that enables the sibling group to remain together,
682 unless the Court determines that the placement of the siblings together would be contrary
683 to the safety, well-being and best interests of the child or any of those siblings, in which
684 case the Court shall order the department to make reasonable efforts to provide for
685 frequent visitation or other ongoing interaction between the child and the siblings, unless
686 the Court determines that such visitation or interaction would be contrary to the safety,
687 well-being or best interests of the child or any of those siblings.

688 708.18-3. *Time Limits of Consent Decree.* A consent decree shall remain in effect up to six (6)
689 months unless the child, parent, guardian, or legal custodian is discharged sooner by the
690 Court. The time limits under this law shall be tolled during the pendency of the consent decree.

691 708.18-4. *Extension of a Consent Decree.* Upon the motion of the Court or the request of the
692 child, parent, guardian, legal custodian, child's guardian ad litem, or the Department, the Court
693 may, after giving notice to the parties to the consent decree extend the decree for up to an
694 additional six (6) months in the absence of objection to extension by the parties to the initial
695 consent decree. If the child, parent, guardian, legal custodian, child's guardian ad litem objects to
696 the extension, the Court shall schedule a hearing and make a determination on the issue of
697 extension.

698 708.18-5. If, prior to discharge by the Court, or the expiration of the consent decree, the Court
699 finds after conducting a hearing that the child, parent, guardian, or legal custodian has failed to
700 fulfill the express terms and conditions of the consent decree, the hearing under which the child
701 was placed on supervision may be continued to conclusion as if the consent decree had never
702 been entered.

703

704 708.19. Plea Hearing for a Child in Need of Protection or Services

705 708.19-1. A plea hearing shall take place on a date which allows reasonable time for the parties
706 to prepare but is within forty-five (45) days after the filing of a petition, unless the Court enters
707 an order finding good cause to go outside of the time limits.

708 708.19-2. If a petition is not contested, the Court shall set a date for the dispositional hearing
709 which allows reasonable time for the parties to prepare but is within forty-five (45) days after the
710 plea hearing, unless the Court enters an order finding good cause to go outside the time limits. If
711 all the parties agree and the Department has submitted a court report pursuant to section 708.21,
712 the Court may proceed immediately with the dispositional hearing.

713 708.19-3. If the petition is contested, the Court shall set a date for the fact-finding hearing which
714 allows reasonable time for the parties to prepare but is within sixty (60) days after the plea
715 hearing, unless the Court enters an order finding good cause to go outside the time limits.

716 708.19-4. Before accepting an admission or plea of no contest of the alleged facts in a petition,
717 the Court shall:

718 (a) Address the parties present and determine that the plea of no contest or admission is
719 made voluntarily with understanding of the nature of the acts alleged in the petition and
720 the potential outcomes;

721 (b) Establish whether any promises or threats were made to elicit the plea of no contest or
722 admission; and

723 (c) Make inquiries that establish a factual basis for the plea of no contest or admission.
724

725 708.20. Fact finding Hearing for a Child in Need of Protection or Services

726 708.20-1. The fact-finding hearing is a hearing conducted by the Court to determine whether
727 there is clear and convincing evidence to establish that the child is in need of protection or
728 services.

729 708.20-2. The fact-finding hearing shall be conducted according to the Oneida Judiciary Rules
730 of Civil Procedure except that the Court may exclude the child from the hearing.

731 708.20-3. At the close of the fact-finding hearing, the Court shall set a date for the dispositional
732 hearing which allows a reasonable time for the parties to prepare but is no more than forty-five
733 (45) days after the fact-finding hearing, unless the Court enters an order finding good cause to go
734 outside the time limits. If all the parties agree and the Department has submitted court report
735 pursuant to section 708.21, the Court may proceed immediately with the dispositional hearing.
736

737 708.21. Department's Disposition Report for a Child in Need of Protection or Services

738 708.21-1. Before the dispositional hearing, the Department shall submit a written report to the
739 Court, with a copy to the parties at least seven (7) days prior to the hearing, which shall contain
740 all of the following:

741 (a) The social history of the child and family;

742 (b) A strategic plan for the care of and assistance to the child and family calculated to
743 resolve the concerns presented in the petition;

744 (c) A detailed explanation showing the necessity for the proposed plan of disposition and
745 the benefits to the child and family under the proposed plan; and

746 (d) If an out-of-home placement is being recommended, specific reasons for
747 recommending that placement.

748 708.21-2. If the Department is recommending out-of-home placement, the written report shall
749 include all of the following:

- 750 (a) The location of the placement and where it fits within the placement preferences.
751 (b) A recommendation as to whether the Court should establish a child support obligation
752 for the parents;
753 (c) Specific information showing that continued placement of the child in his or her
754 home would be contrary to the best interests of the child and specific information
755 showing that the Department has made reasonable efforts to prevent the removal of the
756 child from the home, while assuring that the child's best interests are the paramount
757 concerns;
758 (d) If the child has one (1) or more siblings who have been removed from the home or for
759 whom an out-of-home placement is recommended, specific information showing that
760 Department has made reasonable efforts to place the child in a placement that enables the
761 sibling group to remain together, unless the Department recommends that the child and
762 his or her siblings not be placed together, in which case the report shall include specific
763 information showing that placement of the children together would be contrary to the best
764 interests of the child or any of those siblings; and
765 (e) If a recommendation is made that the child and his or her siblings not be placed
766 together specific information showing that the Department has made reasonable efforts to
767 provide for frequent visitation or other ongoing interaction between the child and the
768 siblings, unless the Department recommends that such visitation or interaction not be
769 provided, in which case the report shall include specific information showing that such
770 visitation or interaction would be contrary to best interests of the child or any of those
771 siblings;

772 708.21-3. The Department may request the Court to withhold identifying information from the
773 child's parent, guardian or legal custodian if there are reasonable grounds to believe that
774 disclosure would result in imminent danger to the child or anyone else.
775

776 **708.22. Dispositional Hearing for a Child in Need of Protection or Services**

777 708.22-1. At a dispositional hearing, any party may present evidence relevant to the issue of
778 disposition, including expert testimony, and may make alternative dispositional
779 recommendations.

780 708.22-2. During a dispositional hearing, if the Department is recommending placement of the
781 child outside of the child's home in accordance with the placement preferences in section
782 708.11-1, the Department shall present as evidence specific information showing all of the
783 following:

- 784 (a) That continued placement of the child in his or her home would be contrary to the
785 best interests of the child;
786 (b) That the Department has made reasonable efforts to prevent the removal of the child
787 from the home, while assuring that the child's best interests are the paramount concerns;
788 (c) If the child has one (1) or more siblings who have been removed from the home or for
789 whom an out-of-home placement is recommended, that the Department has made
790 reasonable efforts to place the child in a placement that enables the sibling group to
791 remain together, unless the Department recommends that the child and his or her siblings
792 not be placed together, in which case the Department shall present as evidence specific
793 information showing that placement of the children together would be contrary to the best
794 interests of the child or any of those siblings; and

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795 (d) If a recommendation is made that the child and his or her siblings not be placed
796 together, that the Department has made reasonable efforts to provide for frequent
797 visitation or other ongoing interaction between the child and the siblings, unless the
798 Department recommends that such visitation or interaction not be provided, in which case
799 the Department shall present as evidence specific information showing that such
800 visitation or interaction would be contrary to the best interests of the child or any of those
801 siblings.

802 708.22-3. The Court's dispositional order shall employ those means necessary to maintain and
803 protect the best interests of the child which are the least restrictive of the rights of the parent and
804 child and which assure the care, treatment or rehabilitation of the child and the family consistent
805 with the protection of the public. When appropriate, and, in cases of child abuse or neglect when
806 it is consistent with the best interest of the child in terms of physical safety and physical health,
807 the family unit shall be preserved and there shall be a policy of transferring custody of a child
808 from the parent only when there is no less drastic alternative. If there is no less drastic
809 alternative for a child than transferring custody from the parent, the Court shall consider
810 transferring custody pursuant to the preferences for placement set forth in section 708.11-1.

811 708.22-4. *Dispositional Orders*. The Court's dispositional order shall be in writing and shall
812 contain:

813 (a) The treatment plan and specific services to be provided to the child and family, and if
814 custody of the child is to be transferred to effect the treatment plan, the identity of the
815 legal custodian;

816 (b) If the child is placed outside the home, where the child will be placed. If the Court
817 finds that disclosing identifying information related to placement of the child would
818 result in imminent danger to the child or anyone else, the Court may order the name and
819 address of whom the child is placed with withheld from the parent or guardian;

820 (c) The date of the expiration of the court's order;

821 (1) A dispositional order made before the child reaches eighteen (18) years of age
822 that places or continues the placement of the child in his or her home shall
823 terminate one (1) year after the date on which the order is granted unless the
824 Court specifies a shorter period of time or the Court terminates the order sooner.

825 (2) A dispositional order made before the child reaches eighteen (18) years of age
826 that places or continues the placement of the child outside of the home shall
827 terminate on the latest of the following dates, unless the Court specifies a shorter
828 period or the Court terminates the order sooner:

829 (A) The date on which the child attains eighteen (18) years of age;

830 (B) The date that is one (1) year after the date on which the order is
831 granted; and

832 (C) The date on which the child is granted a high school or high school
833 equivalency diploma or the date on which the child reaches nineteen (19)
834 years of age, whichever occurs first, if the child is a full-time student at a
835 secondary school or its vocational or technical equivalent and is
836 reasonably expected to complete the program before reaching nineteen
837 (19) years of age.

838 (d) If the child is placed outside the home, a finding that continued placement of the child
839 in his or her home would be contrary to the welfare of the child and a finding as to
840 whether the Department has made reasonable efforts to prevent the removal of the child

841 from the home, while assuring that the child's best interests are the paramount concerns.
842 The Court shall make the findings specified in this subdivision on a case-by-case basis
843 based on circumstances specific to the child;

844 (e) If the child is placed outside the home under the supervision of the Department, an
845 order ordering the child into the placement and care responsibility of the Department and
846 assigning the Department primary responsibility for providing services to the child and
847 family;

848 (f) If the child is placed outside the home and if the child has one (1) or more siblings
849 who have also been placed outside the home, a finding as to whether the Department has
850 made reasonable efforts to place the child in a placement that enables the sibling group to
851 remain together, unless the Court determines that placement of the children together
852 would be contrary to the best interests of the child or any of those siblings, in which case
853 the Court shall order the Department to make reasonable efforts to provide for frequent
854 visitation or other ongoing interaction between the child and the siblings, unless the Court
855 determines that such visitation or interaction would be contrary to the best interests of the
856 child or any of those siblings;

857 (g) A statement of the conditions with which the parties are required to comply; and

858 (h) If the Court finds that it would be in the best interest of the child, the Court may set
859 reasonable rules of parental visitation.

860 (1) If the Court denies a parent visitation, the Court shall enter conditions that
861 shall be met by the parent in order for the parent to be granted visitation.

862 *708.22-5. Treatment Plans and Conditions.* In a proceeding in which a child has been found to
863 be in need of protection or services, the Court may order the child's parent, guardian and legal
864 custodian to comply with any conditions and/or treatment plan determined by the Court to be
865 necessary for the child's welfare.

866 (a) The treatment plan or conditions ordered by the Court shall contain the following
867 information:

868 (1) The identification of the problems or conditions that resulted in the abuse or
869 neglect of a child;

870 (2) The treatment goals and objectives for each condition or requirement
871 established in the plan. If the child has been removed from the home, the
872 treatment plan must include, but is not limited to, the conditions or requirements
873 that must be established for the safe return of the child to the family;

874 (3) The specific treatment objectives that clearly identify the separate roles and
875 responsibilities of all parties addressed in the treatment plan, including the
876 Department's specific responsibilities to make reasonable efforts to assist the
877 parent, guardian or legal custodian in their efforts toward reunification with the
878 child; and

879 (4) A notice that completion of a treatment plan does not guarantee the return of a
880 child and that completion of a treatment plan without a change in behavior that
881 caused removal in the first instance may result in the child remaining outside the
882 home.

883 (b) A treatment plan may include recommendations and the dispositional order may
884 require the child's parent, guardian and legal custodian to participate in:

885 (1) Outpatient mental health treatment;

886 (2) Substance abuse treatment;

- 887 (3) Anger management;
888 (4) Individual or family counseling;
889 (5) Parent training and education;
890 (6) Cultural wellness treatment and training; and/or
891 (7) Any other treatment as deemed appropriate by the Court.

892 708.22-6. If the Court finds that the parent was convicted of committing a crime against the life
893 and bodily security of a child or a crime against a child, contained within Chapters 940 and 948
894 of the Wisconsin Statutes or another similar law in another jurisdiction, the Court may find that
895 the Department is not required to make reasonable efforts with respect to the parent to make it
896 possible for the child to return safely to his or her home.

897 708.22-7. The Court shall provide a copy of the dispositional order to the child's parent,
898 guardian, and legal custodian, other parties to the action, and the child if the child is age twelve
899 (12) or older.

900 708.22-8. Whenever the Court orders a child to be placed outside his or her home or denies a
901 parent visitation because the child is in need of protection or services, the Court shall orally
902 inform the parent who appears in Court of any grounds for termination of parental rights which
903 may be applicable and of the conditions necessary for the child to be returned to the home or for
904 the parent to be granted visitation. The Court shall also include this information in the written
905 dispositional order provided to the parent.

906

907 **708.23. Permanency Plans**

908 708.23-1. The Department shall prepare a written permanency plan anytime a child is placed
909 outside the home pursuant to dispositional order that finds the child is in need of protection or
910 services. The permanency plan shall include all of the following:

- 911 (a) The name, birth date, address, and tribal affiliation of the child;
912 (b) The names, birth dates, addresses, and tribal affiliation of the child's parent(s),
913 guardian(s), and legal custodian(s);
914 (c) The date on which the child was removed from the home;
915 (d) A statement as to the availability of a safe and appropriate placement with an
916 extended family member;
917 (e) The goal(s) of the permanency plan which may include one or more of the following:
918 reunification, adoption, guardianship, placement with a fit and willing relative, or long-
919 term foster care;
920 (f) Date by which it is likely the goal(s) of the permanency plan will likely be achieved;
921 (g) A description of the services offered and any services provided in an effort to prevent
922 removal of the child from the home or to return the child to the home, while assuring that
923 the best interests of the child are the paramount concerns;
924 (h) If the child has one (1) or more siblings who have been removed from the home, a
925 description of the efforts made to place the child in a placement that enables the sibling
926 group to remain together. If a decision is made to not place the siblings together, a
927 description of the efforts made to provide for frequent and ongoing visitation or other
928 ongoing interaction between the child and siblings;
929 (i) Information about the child's education; and
930 (j) Any other appropriate information as deemed necessary by the Court or the
931 Department.

932 708.23-2. The Department shall file the initial permanency plan with the Court within sixty (60)
933 days after the date the child was first removed from the home unless the child is returned to the
934 home within that time period.

935 708.23-3. The Court shall hold a hearing to review the permanency plan no later than six (6)
936 months after the date on which the child was first removed from the home and every six months
937 thereafter for as long as the child is placed outside the home and is found to be in need of
938 protection or services.

939 (a) At least five (5) business days before the date of the hearing, the Department shall
940 provide a copy of the updated permanency plan to the Court and the parties.

941 (b) All parties, including foster parent(s) shall have a right to be heard at the permanency
942 plan hearing. Any party may submit written comments to the Court no less than three (3)
943 business days prior to the hearing date.

944 708.23-4. After the hearing, the Court shall enter a written order addressing the following:

945 (a) The continuing necessity for and the safety and appropriateness of the placement;

946 (b) The compliance with the permanency plan by the Department and any other service
947 providers, the child's parent(s), and the child;

948 (c) Efforts taken to involve appropriate service providers and Department staff in
949 meeting the special needs of the child and the child's parent(s);

950 (d) The progress toward eliminating the causes for the child's placement outside the
951 home and returning the child safely to the home or obtaining a permanent placement for
952 the child;

953 (e) The date by which it is likely that the child will be returned to the home or placed for
954 adoption, with a guardian, with a fit and willing relative, or in some other permanent
955 living arrangement;

956 (f) Whether reasonable efforts were made by the Department to achieve the permanency
957 plan goal(s);

958 (g) Whether reasonable efforts were made by the Department to place the child in a
959 placement that enables the sibling group to remain together or have frequent visitation or
960 other ongoing interaction; and

961 (h) The date of the next review hearing, if appropriate.

962

963 **708.24. Change in Placement**

964 708.24-1. The Department, the Nation's Child Welfare attorney, or a party to the dispositional
965 order may request a change in the placement of the child who is the subject of the dispositional
966 order by filing a motion with the Court. The Court may also propose a change in placement on
967 its own motion.

968 708.24-2. The request for a change in placement shall contain the name and address of the new
969 placement requested and shall state what new information is available that affects the
970 advisability of the current placement.

971 708.24-3. If the proposed change in placement moves the child outside of his or her home, the
972 request shall contain specific information showing that continued placement of the child in the
973 home would be contrary to the best interests of the child and if the Department is making the
974 request, specific information showing that the Department has made reasonable efforts to prevent
975 the removal of the child from the home, while assuring that the child's best interests are the
976 paramount concerns.

977 708.24-4. Written notice of the proposed change in placement shall be sent to all of the parties
978 pursuant to the Oneida Judiciary Rules of Civil Procedure.

979 (a) The Department shall schedule a hearing prior to placing the child outside of the
980 home, unless emergency conditions that necessitate an immediate change in the
981 placement of a child apply.

982 (b) A hearing is not required when the child currently placed outside the home transfers
983 to another out-of-home placement.

984 (1) A party may request a hearing when the child is transferred to a different out-
985 of-home placement by submitting a written request to the Court within ten (10)
986 days of being served with the notice of the proposed change.

987 708.24-5. If a hearing is held, any party may present evidence relevant to the issue of the change
988 in placement. In addition, the Court shall give a foster parent or other legal custodian a right to
989 be heard at the hearing by permitting the foster parent or other legal custodian to make a written
990 or oral statement during the hearing, or to submit a written statement prior to the hearing,
991 relevant to the issue of change in placement.

992 708.24-6. *Emergency Change in Placement.* If emergency conditions necessitate an immediate
993 change in the placement of a child, the Department may remove the child to a new placement,
994 whether or not authorized by the existing dispositional order. Notice of the emergency change in
995 placement shall be sent to the parties as soon as possible but no later than seventy-two (72) hours
996 after the emergency change in placement excluding Saturdays, Sundays, and holidays. If the
997 emergency conditions necessitate an immediate change in placement of a child placed in the
998 home to a placement outside the home, the Department shall schedule the matter for a hearing as
999 soon as possible but no later than seventy-two (72) hours after the emergency change in
1000 placement is made, excluding Saturdays, Sundays, and holidays.

1001 708.24-7. The parties may agree to a change in placement by signing a stipulation and filing it
1002 with the Court for approval.

1003 708.24-8. No change in placement may extend the expiration date of the original dispositional
1004 order, except that if the change in placement is from a placement in the child's home to a
1005 placement outside the home the Court may extend the expiration date of the original
1006 dispositional order to the latest of the following dates, unless the Court specifies a shorter period:

1007 (a) The date on which the child reaches eighteen (18) years of age;

1008 (b) The date that is one (1) year after the date on which the change-in-placement order is
1009 granted; or

1010 (c) The date on which the child is granted a high school or high school equivalency
1011 diploma or the date on which the child reaches nineteen (19) years of age, whichever
1012 occurs first, if the child is a full-time student at a secondary school or its vocational or
1013 technical equivalent and is reasonably expected to complete the program before reaching
1014 nineteen (19) years of age.

1015 708.24-9. If the change in placement is from a placement outside the home to a placement in the
1016 child's home and if the expiration date of the original dispositional order is more than one (1)
1017 year after the date on which the change-in-placement order is granted, the Court shall shorten the
1018 expiration date of the original dispositional order to the date that is one (1) year after the date on
1019 which the change-in-placement order is granted or to an earlier date as specified by the Court.

1020

1021 708.25. Trial Reunification

1022 708.25-1. The Department or the Nation's Child Welfare attorney may request the Court to
1023 order a trial reunification. A trial reunification occurs when a child placed in an out-of-home
1024 placement resides in the home of a parent, guardian, or legal custodian from which the child was
1025 removed for a period of seven (7) consecutive days or longer, but not exceeding one hundred
1026 fifty (150) days, for the purpose of determining the appropriateness of changing the placement of
1027 the child to that home. A trial reunification is not a change in placement under section 708.24.

1028 708.25-2. *Request for Trial Reunification.* The Department or the Nation's Child Welfare
1029 attorney shall include the following in the request for a trial reunification:

1030 (a) The name and address of the requested trial reunification home;

1031 (b) A statement describing why the trial reunification is in the best interests of the child;
1032 and

1033 (c) A statement describing how the trial reunification satisfies the objective of the child's
1034 permanency plan.

1035 708.25-3. *Emergency Removal of a Child.* A request for a trial reunification may not be made
1036 on the sole grounds that an emergency condition necessitates an immediate removal of the child
1037 from the child's out-of-home placement. If an emergency condition necessitates such an
1038 immediate removal, the Department shall proceed with an emergency change in placement as
1039 described in section 708.24-6.

1040 708.25-4. *Notice.* The Department or Nation's Child Welfare attorney shall submit the request
1041 to the Court and shall provide the parent, guardian, legal custodian and any other party written
1042 notice pursuant to the Oneida Judiciary Rules of Civil Procedure. The notice shall contain the
1043 information that is required to be included in the request under section 708.25-2.

1044 708.25-5. *Trial Reunification Hearing.* Any party who is entitled to receive notice of a
1045 requested trial reunification may obtain a hearing on the matter by filing an objection with the
1046 Court within ten (10) days after the trial reunification request was filed with the Court.

1047 (a) If no objection against the trial reunification is filed, the Court may issue an order for
1048 the trial reunification.

1049 (b) If an objection is filed, a hearing shall be held within forty five (45) days after the
1050 request was filed with the Court. A trial reunification shall not occur until after the
1051 hearing. Not less than three (3) business days before the hearing the Department or the
1052 Court shall provide notice of the hearing to all parties with a request for the trial
1053 reunification attached to the notice.

1054 (1) If a hearing is held and the trial reunification would remove a child from a
1055 foster home or other placement with a legal custodian, the Court shall give the
1056 foster parent or other legal custodian a right to be heard at the hearing by
1057 permitting the foster parent or legal custodian to make a written or oral statement
1058 relating to the child and the requested trial reunification.

1059 (2) The Court may appoint a guardian ad litem for the child during the trial
1060 reunification hearing.

1061 708.25-6. *Order.* If the Court finds that the trial reunification is in the best interest of the child
1062 and that the trial reunification satisfies the objectives of the child's permanency plan, the Court
1063 shall order the trial reunification. The trial reunification shall terminate ninety (90) days after the
1064 date of the order, unless the Court specifies a shorter period in the order, extends or revokes the
1065 trial reunification. No trial reunification order may extend the expiration date of the original
1066 dispositional order or any extension of the dispositional order.

1067 708.25-7. *Extension of Trial Reunification.* The Department may request an extension of a trial
1068 reunification.

1069 (a) *Extension Request.* The request shall contain a statement describing how the trial
1070 reunification continues to be in the best interests of the child. No later than ten (10) days
1071 prior to the expiration of the trial reunification, the Department shall submit the request to
1072 the Court and shall cause notice of the request to be provided to all parties.

1073 (b) *Extension Hearing.* Any party may obtain a hearing on the requested extension by
1074 filing an objection with the Court within ten (10) days after the extension request was
1075 filed with the Court.

1076 (1) If no objection is filed, the Court may order an extension of the trial
1077 reunification.

1078 (2) If an objection is filed, the Court shall schedule a hearing on the matter. If the
1079 Court is unable to conduct a hearing on the matter before the trial reunification
1080 expires, the trial reunification shall remain in effect until the Court is able hold the
1081 hearing. Not less than three (3) business days before the hearing the Department
1082 or the Court shall provide notice of the hearing to all parties with a copy of the
1083 extension request attached.

1084 (c) *Extension Order.* If the Court finds that the trial reunification continues to be in the
1085 best interests of the child, the Court shall grant an order extending the trial reunification
1086 for a period specified by the Court. Any number of extensions may be granted, but the
1087 total period for a trial reunification may not exceed one hundred and fifty (150) days.

1088 708.25-8. *End of Trial Reunification Period.* When a trial reunification period ends, the
1089 Department shall do one (1) of the following:

1090 (a) Return the child to his or her out-of-home placement. The Department may do so
1091 without further order of the Court, but within five (5) days after the return of the child to
1092 his out-of-home placement the Department shall provide notice of the following:

1093 (1) the date of the return of the child to the out-of-home placement; and

1094 (2) the address of that placement to all parties, unless providing the address
1095 would present imminent danger to the child;

1096 (b) Request a change in placement under section 708.24 to place the child in a new out-
1097 of-home placement; or

1098 (c) Request a change in placement under section 708.24 to place the child in the trial
1099 reunification home.

1100 708.25-9. *Revocation of Trial Reunification.* The Department may determine that a trial
1101 reunification is no longer in the best interests of the child and revoke the trial reunification before
1102 the specified trial reunification period ends.

1103 (a) *Revocation Request.* If the Department determines that the trial reunification is no
1104 longer in the best interests of the child, the Department, without prior order by the Court,
1105 may remove the child from the trial reunification home and place the child in the child's
1106 previous out-of-home placement or place the child in a new out-of-home placement.

1107 (1) If the Department places the child in the child's previous out-of-home
1108 placement, within three (3) business days of removing the child from the trial
1109 reunification home, the Department shall submit a request for revocation of the
1110 trial reunification to the Court and shall provide notice of the request to all parties.

1111 The request shall contain the following information:

1112 (A) the date on which the child was removed from the trial reunification
1113 home;

1114 (B) the address of the child's current placement, unless providing the
1115 address would present imminent danger to the child; and

1116 (C) the reasons for the proposed revocation.

1117 (2) If the Department places the child in a new out-of-home placement, within
1118 three (3) business days of removing the child from the trial reunification home,
1119 the Department shall request a change in placement under section 708.22. The
1120 procedures specified in section 708.24 apply to a change in placement requested
1121 under this subdivision, except that the request shall include the date on which the
1122 child was removed from the trial reunification home in addition to the information
1123 required in 708.24-2. The trial reunification is revoked when the change in
1124 placement order is granted.

1125 (b) *Revocation Hearing.* Any party may obtain a hearing on the matter by filing an
1126 objection with the Court within ten (10) days after the request was filed with the Court.

1127 (1) If no objection is filed, the Court may issue a revocation order.

1128 (2) If an objection is filed, the Court shall schedule a hearing on the matter. Not
1129 less than three (3) business days before the hearing the Court shall provide notice
1130 of the hearing together with a copy of the request for the revocation, to all parties.

1131 (c) *Revocation Order.* If the Court finds that the trial reunification is no longer in the
1132 best interests of the child who has been placed in his or her previous out-of-home
1133 placement, the Court shall grant an order revoking the trial reunification.

1134 708.25-10. *Prohibited Trial Reunifications.* The Court may not order a trial reunification in the
1135 home of an adult who has been convicted of the first-degree intentional homicide or the second-
1136 degree intentional homicide of a parent of the child or any crime against a child, if the conviction
1137 has not been reversed, set aside, vacated or pardoned. If a parent in whose home a child is placed
1138 for a trial reunification is convicted of homicide or a crime against a child, and the conviction has
1139 not been reversed, set aside, vacated or pardoned, the Court shall revoke the trial reunification
1140 and the child shall be returned to his or her previous out-of-home placement, or placed in a new
1141 out-of-home placement.

1142 (a) *Exception.* A prohibition against trial reunifications based on homicide of a parent or
1143 a crime against a child does not apply if the Court determines by clear and convincing
1144 evidence that the placement would be in the best interests of the child.

1145

1146 **708.26. Revision of Dispositional Orders**

1147 708.26-1. A party, or the Court on its own motion, may request a revision in the dispositional
1148 order that does not involve a change in placement.

1149 708.26-2. The request or Court proposal shall set forth in detail the nature of the proposed
1150 revision and what new information is available that affects the advisability of the Court's
1151 disposition. The request for revision shall be filed with the Court with notice provided by the
1152 parties pursuant to the Oneida Judiciary Rules of Civil Procedure.

1153 708.26-3. The Court shall hold a hearing on the matter prior to any revision of the dispositional
1154 order if the request or Court proposal indicates that new information is available that affects the
1155 advisability of the Court's dispositional order, unless the parties file a signed stipulation and the
1156 Court approves.

1157 708.26-4. If a hearing is held, any party may present evidence relevant to the issue of revision of
1158 the dispositional order. In addition, the Court shall give a foster parent or other legal custodian a
1159 right to be heard at the hearing by permitting the foster parent or other legal custodian to make a
1160 written or oral statement during the hearing, or to submit a written statement prior to the hearing,
1161 relevant to the issue of revision.
1162

1163 **708.27. Extension of Dispositional Orders**

1164 708.27-1. A party, or the Court on its own motion, may request an extension of a dispositional
1165 order. The request shall be filed with the Court with notice to the parties pursuant to the Oneida
1166 Judiciary Rules of Civil Procedure.

1167 708.27-2. No order may be extended without a hearing, unless the parties file a signed
1168 stipulation and the Court approves.

1169 708.27-3. Any party may present evidence relevant to the issue of extension. If the child is
1170 placed outside of his or her home, the Department shall present as evidence specific information
1171 showing that the Department has made reasonable efforts to achieve the permanency goal of the
1172 child's permanency plan. In addition, the Court shall give a foster parent or other legal custodian
1173 a right to be heard at the hearing by permitting the foster parent or other legal custodian to make
1174 a written or oral statement during the hearing, or to submit a written statement prior to the
1175 hearing, relevant to the issue of extension.

1176 708.27-4. The Court shall make findings of fact and conclusions of law based on the evidence.
1177 The findings of fact shall include a finding as to whether reasonable efforts were made by the
1178 Department to achieve the permanency goal of the child's permanency plan.

1179 708.27-5. If a request to extend a dispositional order is made prior to the termination of the
1180 order, but the Court is unable to conduct a hearing on the request prior to the termination date,
1181 the order shall remain in effect until such time as an extension hearing is conducted.
1182

1183 **708.28. Continuation of Dispositional Orders**

1184 708.28-1. If a petition for termination of parental rights or guardianship is filed or an appeal
1185 from a termination of parental rights or guardianship judgment is filed during the year in which a
1186 child in need of protection or services dispositional order is in effect, the dispositional order shall
1187 remain in effect until all proceedings related to the petition or appeal are concluded.
1188

1189 **708.29. Guardianship for Certain Children in Need of Protection or Services**

1190 708.29-1. *Conditions for Guardianship.* The Court may appoint a guardian for a child if the
1191 Court finds all of the following:

1192 (a) That the child has been found to be in need of protection or services under this law
1193 and has been placed outside of his or her home pursuant to one (1) or more Court orders,
1194 or that the child has been found to be in need of protection or services and placement of
1195 the child in the home of a guardian under this section has been recommended by the
1196 Department at the dispositional hearing;

1197 (b) That the person nominated as the guardian of the child is a person with whom the
1198 child has been placed or in whose home placement of the child is recommended by the
1199 Department and that it is likely that the child will continue to be placed with that person
1200 for an extended period of time or until the child attains the age of eighteen (18) years;

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- 1201 (c) That, if appointed, it is likely that the person would be willing and able to serve as the
1202 child's guardian for an extended period of time or until the child attains the age of
1203 eighteen (18) years;
- 1204 (d) That it is not in the best interests of the child that a petition to terminate parental
1205 rights be filed with respect to the child;
- 1206 (e) That the child's parents are neglecting, refusing or unable to carry out the duties of a
1207 guardian; and
- 1208 (f) That the Department has made reasonable efforts to make it possible for the child to
1209 return to his or her home, while assuring that the child's best interests are the paramount
1210 concerns, but that reunification of the child with the child's parent(s) is unlikely or
1211 contrary to the best interests of the child and that further reunification efforts are unlikely
1212 to be made or are contrary to the best interests of the child or that the Department has
1213 made reasonable efforts to prevent the removal of the child from his or her home, while
1214 assuring the child's best interests, but that continued placement of the child in the home
1215 would be contrary to the best interests of the child.
- 1216 708.29-2. *Who May File a Petition for Guardianship.* Any of the following persons may file a
1217 petition for the appointment of a guardian for a child under this section:
- 1218 (a) The child;
- 1219 (b) The child's guardian ad litem;
- 1220 (c) The child's parent;
- 1221 (d) The person with whom the child is placed or in whose home placement of the child is
1222 recommended by the Department;
- 1223 (e) The Department; or
- 1224 (f) The Nation's Child Welfare attorney.
- 1225 708.29-3. *Petition for Guardianship.* A proceeding for the appointment of a guardian for a child
1226 shall be initiated by a petition which shall include the following:
- 1227 (a) The name, birth date, address, and tribal affiliation of the child;
- 1228 (b) The names, birth dates, addresses, and tribal affiliation of the child's parents;
- 1229 (c) A copy of the order adjudicating the child to be in need of protection or services and
1230 the order placing the child outside of the parental home; and
- 1231 (d) A statement of the facts and circumstances which the petitioner alleges establish that
1232 the conditions for guardianship specified in section 708.27-1(a)-(f) are met.
- 1233 708.29-4. *Presence of the Proposed Guardian.* The proposed guardian shall be present at all
1234 guardianship hearings. The Court may waive the appearance requirement for the proposed
1235 guardian if the Court determines there is good cause.
- 1236 708.29-5. *Plea Hearing for Guardianship.* A plea hearing to determine whether any party
1237 wishes to contest a petition for guardianship shall take place no sooner than ten (10) days after
1238 the filing of the petition. At the hearing, the non-petitioning parties shall state whether they wish
1239 to contest the petition. Before accepting an admission or a plea of no contest to the allegations in
1240 the petition, the Court shall do all of the following:
- 1241 (a) Address the parties present and determine that the admission or plea of no contest is
1242 made voluntarily and with understanding of the nature of the facts alleged in the petition,
1243 the nature of the potential outcomes and possible dispositions by the Court and the nature
1244 of the legal consequences of that disposition;
- 1245 (b) Establish whether any promises or threats were made to elicit the admission or plea of
1246 no contest; and

1247 (c) Make inquiries to establish to the satisfaction of the Court that there is a factual basis
1248 for the admission or plea of no contest.

1249 708.29-6. If the petition is not contested and if the Court accepts the admission or plea of no
1250 contest, the Court may immediately proceed to a dispositional hearing unless an adjournment is
1251 requested.

1252 708.29-7. If the petition is contested or if the Court does not accept the admission or plea of no
1253 contest, the Court shall set a date for a fact-finding hearing which allows reasonable time for the
1254 parties to prepare but is not more than sixty (60) days after the plea hearing, unless the Court
1255 enters an order finding good cause to go outside the time limits.

1256 (a) If the petition is contested, the Court shall order the Department to file with the Court
1257 a report containing as much information relating to the appointment of a guardian as is
1258 reasonably ascertainable, including an assessment of the conditions for guardianship
1259 specified in section 708.29-1(a)-(f). The Department shall file its report with the Court
1260 prior to the fact-finding hearing and shall provide the parties with a copy of the report at
1261 least three (3) business days prior to the hearing.

1262 708.29-8. *Fact Finding Hearing for Guardianship.* The Court shall hold a fact-finding hearing
1263 on the petition at which any party may present evidence relevant to the issue of whether the
1264 conditions for guardianship have been met. If the Court, at the conclusion of the fact-finding
1265 hearing, finds by clear and convincing evidence that the conditions for guardianship specified in
1266 section 708.29-1(a)-(f) have been met, the Court shall immediately proceed to a dispositional
1267 hearing unless an adjournment is requested.

1268 708.29-9. *Dispositional Hearing for Guardianship.* The Court shall hold a dispositional hearing
1269 at which any party may present evidence, including expert testimony, relevant to the disposition.
1270 In determining the appropriate disposition for guardianship, the Court shall use the best interests
1271 of the child as the prevailing factor to be considered by the Court. In making a decision about
1272 the appropriate disposition, the Court shall consider any report submitted by the Department and
1273 shall consider, but not be limited to, all of the following:

- 1274 (a) Whether the person would be a suitable guardian of the child;
1275 (b) The willingness and ability of the person to serve as the child's guardian for an
1276 extended period of time or until the child reaches the age of eighteen (18) years; and
1277 (c) The wishes of the child.

1278 708.29-10. *Disposition Order for Guardianship.* After receiving any evidence relating to the
1279 disposition, the Court shall enter one of the following dispositions and issue a written decision
1280 consistent the Oneida Judiciary Rules of Civil Procedure:

- 1281 (a) A disposition dismissing the petition if the Court determines that appointment of the
1282 person as the child's guardian is not in the best interests of the child; or
1283 (b) A disposition ordering that the proposed guardian be appointed as the child's guardian
1284 if the Court determines that such an appointment is in the best interests of the child.

1285 708.29-11. If the Court appoints a guardian for the child, the Court may dismiss the
1286 dispositional order finding that the child is in need of protection or services.

1287

1288 **708.30. Revisions of Guardianship Order**

1289 708.30-1. Any person authorized to file a guardianship petition or the Court, on its own motion
1290 may request a revision in a guardianship order.

1291 708.30-2. The motion or Court proposal shall set forth in detail the nature of the proposed
1292 revision, shall allege facts sufficient to show that there has been a substantial change in

1293 circumstances since the last order affecting the guardianship was entered and that the proposed
1294 revision would be in the best interests of the child and shall allege any other information that
1295 affects the advisability of the Court's disposition. The motion for the revision shall be filed with
1296 the Court with notice provided by the parties pursuant to the Oneida Judiciary Rules of Civil
1297 Procedure.

1298 (a) The Court may order the Department to file with the Court a report containing as
1299 much information relating to the revision of the guardianship as is reasonably
1300 ascertainable. The Department shall file its report with the Court prior to the hearing on
1301 the revision of guardianship and shall provide the parties with a copy of the report at least
1302 three (3) business days prior to the hearing.

1303 708.30-3. The Court shall hold a hearing on the matter prior to any revision of the guardianship
1304 order if the motion or Court proposal indicates that new information is available which affects
1305 the advisability of the Court's guardianship order, unless the parties file a signed stipulation and
1306 the Court approves.

1307

1308 **708.31. Termination of Guardianship**

1309 708.31-1. A guardianship under this law shall continue until any of the following are met,
1310 whichever occurs earlier:

1311 (a) The date on which the child attains eighteen (18) years of age;

1312 (b) The date on which the child is granted a high school or high school equivalency
1313 diploma or the date on which the child reaches nineteen (19) years of age, whichever
1314 occurs first, if the child is a full-time student at a secondary school or its vocational or
1315 technical equivalent and is reasonably expected to complete the program before reaching
1316 nineteen (19) years of age; or

1317 (c) The date on which the Court terminates the guardianship order.

1318 708.31-2. A parent of the child may request that a guardianship order be terminated. The
1319 request shall allege facts sufficient to show that there has been a substantial change in
1320 circumstances since the last order affecting the guardianship was entered, that the parent is
1321 willing and able to carry out the duties of a guardian and that the proposed termination of
1322 guardianship would be in the best interests of the child. The Court shall hold a hearing on the
1323 matter unless the parties file a signed stipulation and the Court approves.

1324 (a) The Court may order the Department to file with the Court a report containing as
1325 much information relating to the termination of the guardianship as is reasonably
1326 ascertainable, including a re-assessment of the conditions for guardianship specified in
1327 section 708.29-1(a)-(f). The Department shall file its report with the Court prior to the
1328 hearing on the termination of guardianship and shall provide the parties with a copy of
1329 the report at least three (3) business days prior to the hearing.

1330 708.31-3. Any person authorized to file a petition under for guardianship may request that a
1331 appointed guardian be removed for cause or the Court may, on its own motion, propose such a
1332 removal. The request or Court proposal shall allege facts sufficient to show that the guardian is
1333 or has been neglecting, is or has been refusing or is or has been unable to discharge the
1334 guardian's trust and may allege facts relating to any other information that affects the advisability
1335 of the Court's disposition. The Court shall hold a hearing on the matter.

1336 708.31-4. A guardian appointed under this law may resign at any time if the resignation is
1337 accepted by the Court.

1338

1339 **708.32. Termination of Parental Rights**

1340 708.32-1. It is the philosophy of the Nation that a united and complete family unit is of the
1341 utmost value to the community and the individual family members, and that the parent-child
1342 relationship is of such vital importance that it should be terminated only as a last resort when all
1343 efforts have failed to avoid termination and it is in the best interests of the child concerned to
1344 proceed with termination of parental rights.

1345 708.32-2. The Court may terminate a parent's rights on a voluntary or involuntary basis.

1346 708.32-3. An order terminating parental rights permanently severs all legal rights and duties
1347 between the parent whose parental rights are terminated and the child.

1348 (a) An order terminating parental rights does not affect a child's relationship with the
1349 child's extended biological family unless the Court expressly finds that it is in the child's
1350 best interest to terminate the child's relationship with his or her extended biological
1351 family.

1352 708.32-4. The termination of parental rights shall not adversely affect the child's rights and
1353 privileges as a member of the Nation, nor as a member of any tribe to which the child is entitled
1354 to membership, nor shall it affect the child's enrollment status with the Nation, nor shall it
1355 interfere with the child's cultural level and traditional and spiritual growth as a member of the
1356 Nation.

1357

1358 **708.33. Voluntary Termination of Parental Rights**

1359 708.33-1. The Court may terminate the parental rights of a parent after the parent has given his
1360 or her consent. When such voluntary consent is given and the Department has submitted a court
1361 report pursuant to section 708.38, the Court may proceed immediately to a dispositional hearing.

1362 708.33-2. The Court may accept a voluntary consent to termination of parental rights only if the
1363 parent appears personally at the hearing and gives his or her consent to the termination of his or
1364 her parental rights. The Court may accept the consent only after the judge has explained the
1365 effect of termination of parental rights and has questioned the parent, and/or has permitted
1366 counsel who represents any of the parties to question the parent, and is satisfied that the consent
1367 is informed and voluntary. If the Court finds that it would be difficult or impossible for the
1368 parent to appear in person at the hearing, the Court may allow the parent to appear by telephone
1369 or live audiovisual means.

1370 708.33-3. If in any proceeding to terminate parental rights voluntarily any party has reason to
1371 doubt the capacity of a parent to give informed and voluntary consent to the termination, he or
1372 she shall so inform the Court. The Court shall then inquire into the capacity of that parent in any
1373 appropriate way and shall make a finding as to whether or not the parent is capable of giving
1374 informed and voluntary consent to the termination. If in the Court's discretion a person is found
1375 incapable of knowingly and voluntarily consenting to the termination of their parental rights, the
1376 Court shall dismiss the voluntary proceedings without prejudice. That dismissal shall not
1377 preclude an involuntary termination of the parent's rights.

1378 708.33-4. A parent who has executed a consent under this section may withdraw the consent for
1379 any reason at any time prior to the entry of a final order terminating parental rights.

1380 708.33-5. Any consent given under this section prior to or within ten (10) days after the birth of
1381 the child is not valid.

1382 708.33-6. The parties may agree to attend peacemaking to establish an agreement regarding post-
1383 voluntary termination of parental rights contact with a birth parent, birth sibling, or other birth
1384 relative of the child.

1385 (a) Any party to a post-voluntary termination contact agreement may petition the
1386 Court that approved the agreement to compel any person who is bound by the
1387 agreement to comply with the agreement. The petition shall allege facts sufficient to
1388 show that a person who is bound by the agreement is not in compliance with the
1389 agreement and that the petitioner, before filing the petition, attempted in good faith to
1390 resolve the dispute giving rise to the filing of the petition. The petition may also
1391 allege facts showing that the noncompliance with the agreement is not in the best
1392 interests of the child.

1393 (b) After receiving a petition for action regarding a post-voluntary termination
1394 contact agreement the Court shall set a date and time for a hearing on the petition and
1395 shall provide notice of the hearing to all parties to the agreement and may reappoint a
1396 guardian ad litem for the child.

1397 (c) If the Court finds, after hearing, that any person bound by the agreement is not in
1398 compliance with the agreement and that the petitioner, before filing the petition,
1399 attempted in good faith to resolve the dispute giving rise to the filing of the petition,
1400 the Court shall issue an order requiring the person to comply with the agreement and
1401 may find a party in contempt.

1402 (d) The Court may not revoke a termination of parental rights order or an order of
1403 adoption because an adoptive parent or other custodian of the child or a birth parent,
1404 birth sibling, or other birth relative of the child fails to comply with a post-voluntary
1405 termination contact agreement; however, the parties may return to peacemaking to
1406 revise the agreement, or the Court may amend an order if it finds an amendment to
1407 the order is in the best interests of the child.
1408

1409 **708.34. Grounds for Involuntary Termination of Parental Rights**

1410 708.34-1. Grounds for termination of parental rights shall be any of the following:

1411 (a) *Abandonment.* Abandonment occurs when a parent either deserts a child without any
1412 regard for the child's physical health, safety or welfare and with the intention of wholly
1413 abandoning the child, or in some instances, fails to provide necessary care for their child.

1414 (1) Abandonment shall be established by proving any of the following:

1415 (A) That the child has been left without provision for the child's care or
1416 support, the petitioner has investigated the circumstances surrounding the
1417 matter and for sixty (60) consecutive days the petitioner has been unable
1418 to find either parent;

1419 (B) That the child has been left by the parent without provision for the
1420 child's care or support in a place or manner that exposes the child to
1421 substantial risk of great bodily harm or death;

1422 (C) That a court of competent jurisdiction has found any of the
1423 following:

1424 (i) That a child has been abandoned under Wis. Stat. 48.13 (2) or
1425 under a law of any other state or a federal law that is comparable to
1426 the state law;

1427 (ii) That the child was abandoned when the child was under one
1428 (1) year of age or has found that the parent abandoned the child
1429 when the child was under one (1) year of age in violation of Wis.
1430 Stat. 948.20 or in violation of the law of any other state or federal

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- 1431 law, if that violation would be a violation of abandonment of a
1432 child under Wis. Stat. 948.20 if committed in this state;
- 1433 (D) That the child has been placed, or continued in a placement, outside
1434 the parent's home by a Court order containing the required notice and the
1435 parent has failed to visit or communicate with the child for a period of
1436 three (3) months or longer; or
- 1437 (E) The child has been left by the parent with any person, the parent
1438 knows or could discover the whereabouts of the child and the parent has
1439 failed to visit or communicate with the child for a period of six (6)
1440 consecutive months or longer.
- 1441 (2) Incidental contact between parent and child shall not preclude the Court from
1442 finding that the parent has failed to visit or communicate with the child. The time
1443 periods under sections 708.34-1(a)(1)(D) and 708.34-1(a)(1)(E) shall not include
1444 any periods during which the parent has been prohibited by Court order from
1445 visiting or communicating with the child.
- 1446 (3) Abandonment is not established under sections 708.34-1(a)(1)(D) and 708.34-
1447 1(a)(1)(E) if the parent proves all of the following by clear and convincing
1448 evidence:
- 1449 (A) That the parent had good cause for having failed to visit with the child
1450 throughout the three (3) or six (6) month time period alleged in the
1451 petition.
- 1452 (B) That the parent had good cause for having failed to communicate with
1453 the child throughout the three (3) or six (6) month time period alleged in
1454 the petition.
- 1455 (C) If the parent proves good cause under section 708.34-1(a)(3)(B),
1456 including good cause based on evidence that the child's age or condition
1457 would have rendered any communication with the child meaningless, that
1458 one (1) of the following occurred:
- 1459 (i) The parent communicated about the child with the person or
1460 persons who had physical custody of the child during the three (3) or
1461 six (6) month time period alleged in the petition, whichever is
1462 applicable, or, with the Department during the three (3) month time
1463 period alleged in the petition.
- 1464 (ii) The parent had good cause for having failed to communicate
1465 about the child with the person or persons who had physical custody
1466 of the child or the Department throughout the three (3) or six (6)
1467 month time period alleged in the petition.
- 1468 (b) *Relinquishment*. Relinquishment occurs when a parent gives up or abandons their
1469 child and all rights to their child. Relinquishment shall be established by proving that a
1470 court of competent jurisdiction has found that the parent has relinquished custody of the
1471 child when the child was seventy-two (72) hours old or younger.
- 1472 (c) *Continuing Need of Protection or Services*. Continuing need of protection or services
1473 shall be established by proving any of the following:
- 1474 (1) That the child has been found to be in need of protection or services and
1475 placed, or continued in a placement, outside his or her home pursuant to one (1)
1476 or more dispositional orders containing the notice required by section 708.22-7;

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- 1477 (2) That the Department has made a reasonable effort to provide the services
1478 ordered by the Court;
- 1479 (3) That the child has been outside the home for a cumulative total period of six
1480 (6) months or longer pursuant to such orders; and that the parent has failed to
1481 meet the conditions established for the safe return of the child to the home and
1482 there is a substantial likelihood that the parent will not meet these conditions
1483 within the nine (9) month period following the termination of parental rights fact-
1484 finding hearing.
- 1485 (d) *Continuing Parental Disability*. Continuing parental disability shall be established by
1486 proving that:
- 1487 (1) The parent is presently, and for a cumulative total period of at least two (2)
1488 years within the five (5) years immediately prior to the filing of the petition has
1489 been, an inpatient at one (1) or more hospitals as defined in either the Nation's
1490 laws or state law;
- 1491 (2) The condition of the parent is likely to continue indefinitely; and
- 1492 (3) The child is not being provided with adequate care by a relative who has legal
1493 custody of the child, or by a parent or a guardian.
- 1494 (e) *Continuing Denial of Periods of Physical Placement or Visitation*. Continuing denial
1495 of periods of physical placement or visitation shall be established by proving all of the
1496 following:
- 1497 (1) The parent has been denied periods of physical placement by Court order in
1498 an action affecting the family or has been denied visitation under a dispositional
1499 order containing the notice required by section 708.20-7, Wis. Stat. 48.356 (2), or
1500 Wis. Stat. 938.356 (2); and
- 1501 (2) A Court order has denied the parent periods of physical placement or
1502 visitation for at least one (1) year.
- 1503 (f) *Child Abuse*. Child abuse shall be established by proving that the parent has
1504 committed child abuse against the child who is the subject of the petition and proving
1505 either of the following:
- 1506 (1) That the parent has caused death or injury to a child resulting in a felony
1507 conviction; or
- 1508 (2) That a child has previously been removed from the parent's home pursuant to
1509 a dispositional order after an adjudication that the child is in need of protection or
1510 services.
- 1511 (g) *Failure to Assume Parental Responsibility*. Failure to assume parental responsibility
1512 shall be established by proving that the parent or the person(s) who may be the parent of
1513 the child have not had a substantial parental relationship with the child.
- 1514 (1) In evaluating whether the person has had a substantial parental relationship
1515 with the child, the Court may consider such factors, including, but not limited to,
1516 the following:
- 1517 (A) Whether the person has expressed concern for or interest in the support,
1518 care or well-being of the child;
- 1519 (B) Whether the person has neglected or refused to provide care or support
1520 for the child; and

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- 1521 (C) Whether, with respect to a person who is or may be the father of the
1522 child, the person has expressed concern for or interest in the support, care or
1523 well-being of the mother during her pregnancy.
- 1524 (h) *Incestuous Parenthood.* Incestuous parenthood shall be established by proving that
1525 the person whose parental rights are sought to be terminated is also related, either by
1526 blood or adoption, to the child's other parent in a degree of kinship closer than 2nd
1527 cousin.
- 1528 (i) *Homicide or Solicitation to Commit Homicide of a Parent.* Homicide or solicitation
1529 to commit homicide of a parent, which shall be established by proving that a parent of the
1530 child has been a victim of first-degree intentional homicide, first-degree reckless
1531 homicide or 2nd-degree intentional homicide or a crime under federal law or the law of
1532 any other state that is comparable to any of those crimes, or has been the intended victim
1533 of a solicitation to commit first-degree intentional homicide or a crime under federal law
1534 or the law of any other state that is comparable to that crime, and that the person whose
1535 parental rights are sought to be terminated has been convicted of that intentional or
1536 reckless homicide, solicitation or crime as evidenced by a final judgment of conviction.
- 1537 (j) *Parenthood as a Result of Sexual Assault.*
- 1538 (1) Parenthood as a result of sexual assault shall be established by proving that
1539 the child was conceived as a result of one of the following:
- 1540 (A) First degree sexual assault [under Wis. Stats. 940.225(1)];
1541 (B) Second degree sexual assault [under Wis. Stat. 940.225 (2)];
1542 (C) Third degree sexual assault [under Wis. Stat. 940.225(3)];
1543 (D) First degree sexual assault of a child [under Wis. Stat. 948.02(1)];
1544 (E) Second degree sexual assault of a child [under Wis. Stat. 948.02 (2)];
1545 (F) Engaging in repeated acts of sexual assault of the same child [under Wis.
1546 Stat. 948.025]; or
1547 (G) Sexual assault of a child placed in substitute care [under Wis. Stat.
1548 948.085].
- 1549 (2) Conception as a result of sexual assault may be proved by a final judgment of
1550 conviction or other evidence produced at a termination of parental rights fact-
1551 finding hearing indicating that the person who may be the parent of the child
1552 committed, during a possible time of conception, a sexual assault as specified in
1553 this section against the other parent of the child.
- 1554 (3) If the conviction or other evidence indicates that the child was conceived as a
1555 result of a sexual assault in violation of Wis. Stat. 948.02 (1) or (2) or 948.085,
1556 the parent of the child may be heard on his or her desire for the termination of the
1557 other parent's parental rights.
- 1558 (k) *Commission of a Felony Against a Child.*
- 1559 (1) Commission of a serious felony against the child, shall be established by
1560 proving that the child was the victim of a serious felony and parent was convicted
1561 of that serious felony.
- 1562 (2) Commission of a violation of trafficking of a child under Wis. Stat. 948.051
1563 involving any child or a violation of the law of any other state or federal law, if
1564 that violation would be a violation of Wis. Stat. 948.051 involving any child if
1565 committed in this state.
- 1566 (3) In this subsection, "serious felony" means any of the following:

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- 1567 (A) The commission of, the aiding or abetting of, or the solicitation,
1568 conspiracy or attempt to commit, a violation of any of the following:
1569 (i) First degree intentional homicide [under Wis. Stat. 940.01];
1570 (ii) First degree reckless homicide [under Wis. Stat. 940.02];
1571 (iii) Felony murder [under Wis. Stat. 940.03];
1572 (iv) Second-degree intentional homicide [under Wis. Stat. 940.05]; or
1573 (v) A violation of the law of any other state or federal law, if that
1574 violation would be a violation of the above mentioned felonies if
1575 committed in Wisconsin.
- 1576 (B) The commission of a violation of any of the following:
1577 (i) Battery, substantial battery, aggravated battery [under Wis. Stat.
1578 940.19 (3), 1708 stats., or Wis. Stats. 940.19 (2), (4) or (5)];
1579 (ii) Sexual assault [under Wis. Stat. 940.225 (1) or (2)];
1580 (iii) Sexual assault of a child [under Wis. Stat. 948.02 (1) or (2)];
1581 (iv) Engaging in repeated acts of sexual assault of the same child
1582 [under Wis. Stat. 948.025];
1583 (v) Physical abuse of a child [under Wis. Stats. 948.03 (2) (a), (3) (a),
1584 or (5) (a) 1., 2., or 3.];
1585 (vi) Sexual exploration of a child [under Wis. Stat. 948.05];
1586 (vii) Trafficking of a child [under Wis. Stat. 948.051];
1587 (viii) Incest with a child [under Wis. Stat. 948.06];
1588 (ix) Soliciting a child for prostitution [under Wis. Stat. 948.08];
1589 (x), Human trafficking [under Wis. Stat. 940.302 (2) if Wis. Stat.
1590 940.302 (2) (a) 1. b. applies]; or
1591 (xi) A violation of the law of any other state or federal law, if that
1592 violation would be a violation listed under the above listed felonies if
1593 committed in Wisconsin.
- 1594 (C) The commission of a violation of neglecting a child under Wis. Stat.
1595 948.21 or a violation of the law of any other state or federal law, if that
1596 violation would be a violation of Wis. Stat. 948.21 if committed in this
1597 state, that resulted in the death of the victim.
- 1598 (l) *Prior Involuntary Termination of Parental Rights of Another Child.* Prior involuntary
1599 termination of parental rights to another child shall be established by proving all of the
1600 following:
1601 (1) That the child who is the subject of the petition is in need of protection or
1602 services under section 708.5-2(b), (d), or (k); or that the child who is the subject
1603 of the petition was born after the filing of a petition under this subsection whose
1604 subject is a sibling of the child; and
1605 (2) That, within three (3) years prior to the date the Court determined the child to
1606 be in need of protection or services as specified in section 708.34-1 (l) (1) or, in
1607 the case of a child born after the filing of a petition as specified in section 708.34-
1608 1 (l) (1), within three (3) years prior to the date of birth of the child, a Court has
1609 ordered the termination of parental rights with respect to another child of the
1610 person whose parental rights are sought to be terminated on one or more of the
1611 grounds specified in this section.
1612

1613 **708.35. Petition for Termination of Parental Rights**

1614 708.35-1. *Who May File a Petition for Termination of Parental Rights.* A petition for
1615 termination of parental rights shall be filed by the Nation's Child Welfare attorney, the
1616 Department, or the child's parent in the case of a step-parent adoption.

1617 708.35-2. A petition for the termination of parental rights may be filed when the child has been
1618 placed outside of his or her home for fifteen (15) of the most recent twenty-two (22) months
1619 unless any of the following applies:

- 1620 (a) The child is being cared for by a fit and willing relative of the child;
1621 (b) The child's permanency plan indicates and provides documentation that termination
1622 of parental rights to the child is not in the best interests of the child;
1623 (c) The Department, if required by a dispositional order, failed to make reasonable efforts
1624 to make it possible for the child to return safely to his or her home, did not provide or
1625 refer services to the family of the child for the safe return of the child to his or her home
1626 that were consistent with the time period in the child's permanency plan; or
1627 (d) Grounds for an involuntary termination of parental rights do not exist.

1628 708.35-3. A petition for the termination of parental rights shall include the following
1629 information:

- 1630 (a) The name, birth date, address, and tribal affiliation of the child;
1631 (b) The names, birth dates, addresses, and tribal affiliation of the child's parents;
1632 (c) A Uniform Child Custody Jurisdiction and Enforcement Act affidavit; and
1633 (d) One (1) of the following:
1634 (1) A statement that consent will be given to voluntary termination of parental
1635 rights as provided in section 708.33; or
1636 (2) A statement of the grounds for involuntary termination of parental rights
1637 under section 708.34 and a statement of the facts and circumstances which the
1638 petitioner alleges establish these grounds.

1639 708.35-4. *Temporary Order and Injunction Prohibiting Contact.* If the petition includes a
1640 statement of the grounds for involuntary termination of parental rights, the petitioner may, at the
1641 time the petition is filed, also petition the Court for a temporary order and an injunction
1642 prohibiting the person whose parental rights are sought to be terminated from visiting or
1643 contacting the child who is the subject of the petition. Any petition under this section shall
1644 allege facts sufficient to show that prohibiting visitation or contact would be in the best interests
1645 of the child.

1646 (a) The Court may grant an injunction prohibiting the respondent from visiting or
1647 contacting the child if the Court determines that the prohibition would be in the best
1648 interests of the child. An injunction under this subsection is effective according to its
1649 terms but may not remain in effect beyond the date the Court dismisses the petition for
1650 termination of parental rights or issues an order terminating parental rights.

1651 708.35-5. The petitioner shall ensure the summons and petition are served upon the following
1652 persons pursuant to the Oneida Judiciary Rules of Civil Procedure:

- 1653 (a) The parent(s) of the child, including an alleged father if paternity has not been
1654 established;
1655 (b) The child's foster parent, guardian or legal custodian, if applicable. If the address has
1656 been marked confidential by the Court, the Court shall send a copy of the summons and
1657 petition to the home in which the child is placed via first-class U.S. mail; and

1658 (c) The Nation's Child Welfare attorney and the Department, if the petition is filed by
1659 anyone other than the Nation's Child Welfare attorney or the Department.
1660

1661

708.36. Initial Hearing on the Termination of Parental Rights Petition

1662 708.36-1. The initial hearing on the petition to terminate parental rights shall be held within
1663 forty-five (45) days after the petition is filed. At the hearing the Court shall determine whether
1664 any party wishes to contest the petition and inform the parties of their rights.

1665 708.36-2. If the petition is contested, the Court shall set a date for a fact-finding hearing to be
1666 held within sixty (60) days after the hearing on the petition, unless the Court enters an order
1667 finding good cause to go outside the time limits.

1668 708.36-3. If the petition is not contested, the Court shall hear testimony in support of the
1669 allegations in the petition and may proceed immediately with a dispositional hearing if the
1670 parties agree. Before accepting an admission of the alleged facts in a petition, the Court shall:

1671 (a) Address the parties present and determine that the admission is made voluntarily with
1672 understanding of the nature of the acts alleged in the petition and the potential outcomes
1673 and possible dispositions by the Court;

1674 (b) Establish whether any promises or threats were made to elicit an admission; and

1675 (c) Make such inquiries to establish a factual basis for the admission.
1676

1677

708.37. Fact Finding Hearing for a Termination of Parental Rights

1678 708.37-1. The fact-finding hearing is a hearing conducted by the Court to determine whether
1679 there is clear and convincing evidence to establish that grounds exist for the termination of
1680 parental rights.

1681 708.37-2. The fact-finding hearing shall be conducted according to the Oneida Judiciary Rules
1682 of Civil Procedure except that the Court may exclude the child from the hearing.

1683 708.37-3. If grounds for the termination of parental rights are found by the Court, the Court shall
1684 find the parent(s) unfit. A finding of unfitness shall not prevent a dismissal of a termination of
1685 parental rights petition. Unless the parties agree to proceed immediately with the dispositional
1686 hearing and the Court accepts, the Court shall set a date for a dispositional hearing no later than
1687 forty-five (45) days after the fact-finding hearing, unless the Court enters an order finding good
1688 cause to go outside the time limits.
1689

1690

708.38. Department's Termination of Parental Rights Report

1691 708.38-1. In any case that the Department is a party, the Department shall submit a written
1692 report to the Court prior to any dispositional hearing, with a copy to the parties no later than
1693 seven (7) days prior to the hearing, which shall contain all of the following:

1694 (a) The social history of the child and family, including any relevant medical conditions;

1695 (b) A statement of the facts supporting the need for termination of parental rights;

1696 (c) If the child has been previously adjudicated to be in need of protection or services, a
1697 statement of the steps the Department has taken to remedy the conditions responsible for
1698 Court intervention and the parent's response to and cooperation with these services. If the
1699 child has been removed from the home, the report shall also include a statement of the
1700 reasons why the child cannot be returned safely to the family and the steps the
1701 Department has taken to effect this return;

1702 (d) A statement applying the standards and factors identified in sections 708.39-2 and
1703 708.39-3 regarding the case before the Court; and

1704 (e) If the report recommends that the parental rights of both of the child's parents or the
1705 child's only living or known parent are to be terminated, the report shall contain a
1706 statement of the likelihood that the child will be adopted. This statement shall include a
1707 presentation of the factors that might prevent adoption, those that may facilitate adoption,
1708 and the Department shall be responsible for accomplishing the adoption.

1709 (1) If the Department determines that it is unlikely that the child will be adopted,
1710 or if adoption would not be in the best interests of the child, the report shall
1711 include a plan for placing the child in a permanent family setting. The plan shall
1712 include a recommendation for the appointment of guardian for the child.

1713 708.38-2. The Court may order a report as specified under this section to be prepared by the
1714 Department in those cases where the Department is not a party.

1715

1716 **708.39. Standards and Factors**

1717 708.39-1. In making a decision about the appropriate disposition for termination of parental
1718 rights, the Court shall consider the standards and factors enumerated in this section and any
1719 report submitted by the Department.

1720 708.39-2. The best interests of the child shall be the prevailing standard considered by the Court
1721 in determining the disposition of all termination of parental rights proceedings.

1722 708.39-3. In considering the best interests of the child the Court shall also consider, but not be
1723 limited to, the following factors:

1724 (a) The likelihood of the child's adoption after termination;

1725 (b) Whether the child will be raised in an environment that is respectful of the child's
1726 race(s), culture(s), and heritage(s);

1727 (c) The age and health of the child, both at the time of the disposition and, if applicable,
1728 at the time the child was removed from the home;

1729 (d) Whether the child has substantial relationships with the parent or other family
1730 members, and whether it would be harmful to the child to sever these relationships;

1731 (e) The wishes of the child;

1732 (f) The duration of the separation of the parent from the child; and

1733 (g) Whether the child will be able to enter into a more stable and permanent family
1734 relationship as a result of the termination, taking into account the conditions of the child's
1735 current placement, the likelihood of future placements and the results of prior placements.

1736

1737 **708.40. Dispositional Hearings for Termination of Parental Rights**

1738 708.40-1. Any party may present evidence relevant to the issue of disposition, including expert
1739 testimony, and may make alternative dispositional recommendations to the Court. After
1740 receiving any evidence related to the disposition, the Court shall enter a disposition and issue a
1741 written decision consistent with the Oneida Judiciary Rules of Civil Procedure.

1742 (a) The Court shall give the foster parent or other legal custodian a right to be heard at
1743 the dispositional hearing by permitting the foster parent or other legal custodian to make
1744 a written or oral statement during the dispositional hearing, or to submit a written
1745 statement prior to disposition, relevant to the issue of disposition.

1746 708.40-2. The Court shall enter one (1) of the following dispositions:

1747 (a) The Court may dismiss the petition if it finds the evidence does not warrant the
1748 termination of parental rights or if the Court finds that a parent is attempting to

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1749 voluntarily terminate their parental rights for the sole purpose of avoiding a child support
1750 obligation; or

1751 (b)The Court may enter an order terminating the parental rights of one or both parents.

1752 708.40-3. If the rights of both parents, or of the only living parent, are terminated and if a
1753 guardian has not been appointed, the Court shall do one (1) of the following while adhering to
1754 the placement preferences pursuant to section 708.11-1 when possible:

1755 (a) Transfer guardianship and custody of the child pending adoptive placement to:

1756 (1) A tribal or county department authorized to accept guardianship;

1757 (2) A child welfare agency licensed to accept guardianship;

1758 (3) The State of Wisconsin upon written confirmation from the State that they are
1759 willing to accept guardianship;

1760 (4) A relative with whom the child resides, if the relative has filed a petition to
1761 adopt the child or if the relative is a kinship care relative or is receiving payments
1762 for providing care and maintenance for the child; or

1763 (5) An individual who has been appointed guardian of the child by a court of a
1764 competent jurisdiction; or

1765 (b) Appoint a guardian and transfer guardianship and custody of the child to the guardian.

1766 708.40-4. The written Court order shall include the following:

1767 (a) If the Court dismisses the petition, the order shall contain the reasons for dismissal; or

1768 (b) If the disposition is for the termination of parental rights, the order shall contain all of
1769 the following:

1770 (1) The identity of any agency, department, or individual that has received
1771 guardianship of the child;

1772 (2) If an agency or department receives guardianship and custody of the child, an
1773 order ordering the child into the placement and care responsibility of the agency
1774 or department and assigning the agency or department primary responsibility for
1775 providing services to the child; and

1776 (3) A finding that the termination of parental rights is in the best interests of the
1777 child.

1778 708.40-5. If an order is entered to terminate a parent's rights, the Court shall orally inform the
1779 parent(s) who appear in Court or place in the written order the ground(s) for termination of
1780 parental rights specified in section 708.34.

1781 708.40-6. If the Court terminates parental rights, the Department, or the Court if the Department
1782 is not a party to the action, shall forward the following information to the State of Wisconsin:

1783 (a) The name, date of birth, and tribal affiliation of the child whose birth parent's rights
1784 have been terminated;

1785 (b) The names and current addresses of the child's birth parents, guardian and legal
1786 custodian; and

1787 (c) Any medical or genetic information received by the Department.

1788 708.40-7. If only one parent consents for a voluntary termination of parental rights or if the
1789 grounds for involuntary termination of parental rights are found to exist as to only one parent, the
1790 rights of only that parent may be terminated without affecting the rights of the other parent if the
1791 Court finds such termination to be in the best interest of the child.

1792

1793 **708.41. Adoption**

1794 708.41-1. Adoptions under this law shall take the form of customary adoptions unless the Court
1795 determines there is good cause for the adoption to be closed.

1796 708.41-2. *Customary Adoptions.* The purpose of customary adoption is not to permanently
1797 deprive the child of connections to, or knowledge of, the child's biological family, but to provide
1798 the child a permanent home. The following shall apply to all customary adoptions and shall be
1799 contained in all adoptive orders and decrees:

1800 (a) The relationship between an adoptive parent and adoptive child shall have all the
1801 same rights, responsibilities, and other legal consequences as the relationship between a
1802 biological child and parent;

1803 (b) The adoptive child shall have an absolute right, absent a convincing and compelling
1804 reason to the contrary, to information and knowledge about his or her biological family
1805 and his or her Oneida heritage, if applicable. The child may obtain adoption information from
1806 files maintained by the Court or Department;

1807 (c) Adoption shall not prevent an adoptive child from inheriting from a biological parent
1808 in the same manner as any other biological child. The biological parents shall not be
1809 entitled to inherit from an adoptive child in the same manner as parents would otherwise
1810 be entitled to inherit. An adoptive child shall be entitled to inherit from adoptive parents,
1811 and vice versa, in the same manner as if biological parents and child;

1812 (d) Although parental rights have been terminated, the biological parent may retain
1813 certain residual parental rights when appropriate as determined by agreement between the
1814 adoptive parent and biological parent made through peacemaking, or by order of the
1815 Court. Such residual parental rights may include:

1816 (1) The right to communication;

1817 (2) The right to visitation;

1818 (3) The right or obligation to contribute to support or education;

1819 (4) The right to be consulted regarding the child's religious affiliation, major
1820 medical treatment, marriage, or other matters of major importance in the child's
1821 life; and/or

1822 (5) Such other residual rights the Court may deem appropriate, considering the
1823 circumstances.

1824 (e) Adoption does not extinguish the relationships between the child and the child's
1825 extended biological family. The child's extended biological family retains the right to
1826 reasonable communication and visitation with the child, subject to reasonable controls of
1827 the adoptive parents.

1828 708.41-3. *Closed Adoptions.* Closed adoptions occur in situations where a child needs a
1829 permanent home and it is necessary to sever all ties between the child and his or her biological
1830 family. The following shall apply to all closed adoptions:

1831 (a) The relationship between an adoptive parent and adoptive child shall have all the
1832 same rights, responsibilities, and other legal consequences as the relationship between a
1833 biological child and parent;

1834 (b) The relationship between the adopted child and all persons whose relationship to the
1835 adopted child is derived through the biological parents shall be completely altered and all
1836 the rights, duties, and other legal consequences of those relationships shall cease to exist;

1837 (c) The child's biological family shall not be entitled to or have access to any
1838 information regarding said child;

1839 (d) The child shall be entitled to information and knowledge regarding his or her culture
1840 and heritage; and

1841 (e) The child shall be entitled to information regarding his or her biological family upon
1842 reaching the age of majority. The child may obtain adoption information from files
1843 maintained by the Court or Department.

1844

1845 **708.42. Adoption Criteria and Eligibility**

1846 708.42-1. *Criteria for Adoption.* Any child who is subject to this law may be adopted if any of
1847 the following criteria are met:

1848 (a) Both of the child's parents are deceased;

1849 (b) The parental rights of both of the child's parents with respect to the child have been
1850 terminated;

1851 (c) The parental rights of one of the child's parents with respect to the child have been
1852 terminated and the child's other parent is deceased; or

1853 (d) The person filing the petition for adoption is the spouse of the child's parent and
1854 either of the following applies:

1855 (1) The child's other parent is deceased; or

1856 (2) The parental rights of the child's other parent with respect to the child have
1857 been terminated.

1858 708.42-2. *Eligibility.* The following persons are eligible to adopt a child who falls under the
1859 jurisdiction of this law pending the successful clearing of a background check:

1860 (a) A married adult couple;

1861 (b) Either spouse if the other spouse is a parent of the child; or

1862 (c) An unmarried adult.

1863 708.42-3. If the person proposing to adopt the child cannot successfully clear a background
1864 check, and any convictions the person may possess have not been pardoned, forgiven, reversed,
1865 set aside or vacated, the Court may still deem the person eligible to adopt if the Court determines
1866 by clear and convincing evidence that the adoption would be in the best interests of the child.

1867

1868 **708.43. Adoption Procedure**

1869 708.43-1. *Petition for Adoption.* A person proposing to adopt shall initiate a proceeding for the
1870 adoption of a child by filing a petition with the Court. The petition shall include the following
1871 information:

1872 (a) The name, birth date, address, and tribal affiliation of the petitioner;

1873 (b) The name, birth date, address, and tribal affiliation of the child;

1874 (c) The names, birth dates, addresses, and tribal affiliation of the child's biological
1875 parents;

1876 (d) The name by which the child shall be known if the petition is granted;

1877 (e) The relationship of the petitioner to the child; and

1878 (f) A copy of the order terminating parental rights of the child's biological parent(s).

1879 708.43-2. Upon the filing of a petition for adoption, the Court shall schedule a hearing within
1880 sixty (60) days. Notice of the hearing shall be served on the parties pursuant to the Oneida
1881 Judiciary Rules of Civil Procedure.

1882 708.43-3. When a petition for adoption is filed, the Court shall order an investigation to
1883 determine whether the child is a proper subject for adoption and whether the petitioner's home is
1884 suitable for the child. The Court shall order one (1) of the following to conduct the investigation:

1885 (a) If the Department, or another agency or department, has guardianship of the child, the
1886 agency or department that has guardianship; or

1887 (b) If no agency or department has guardianship of the child and a relative, including a
1888 stepparent, has filed the petition for adoption, the Department.

1889 708.43-4. The Department or other agency or department making the investigation shall file its
1890 report with the Court prior to the hearing on the petition and shall provide the parties with a copy
1891 of the report at least three (3) business days prior to the hearing.

1892 708.43-5. If the report of the investigation is unfavorable or if it discloses a situation which, in
1893 the opinion of the Court, raises a serious question as to the suitability of the proposed adoption,
1894 the Court may appoint a guardian ad litem for the child whose adoption is proposed.

1895 708.43-6. During the hearing the parties may agree to attend peacemaking to establish an
1896 agreement regarding residual rights of a birth parent, birth sibling, or other birth relative of the
1897 child.

1898 708.43-7. If after the hearing and a study of the report required by section 708.43-3 the Court is
1899 satisfied that the adoption is in the best interests of the child, the Court shall make an order
1900 granting the adoption. The order may change the name of the child to that requested by
1901 petitioners.

1902 708.43-8. After the order of adoption is entered the relation of parent and child and all the rights,
1903 duties and other legal consequences of the natural relation of child and parent thereafter exists
1904 between the adopted child and the adoptive parents. The relationship between the adopted child
1905 and biological parents shall be completely altered and all the rights, duties, and other legal
1906 consequences of those relationships shall cease to exist, excluding any residual rights granted to
1907 the biological parents and extended family through customary adoption. If the biological parent
1908 is the spouse of the adoptive parent, the relationship shall be completely altered and those rights,
1909 duties, and other legal consequences shall cease to exist only with respect to the biological parent
1910 who is not the spouse of the adoptive parent.

1911 708.43-9. After entry of the order granting the adoption, the Department shall promptly mail a
1912 copy of the order to the State of Wisconsin Bureau of Vital Statistics and furnish any additional
1913 data needed for the issuance of a new birth certificate.

1914

1915 **708.44. Non-Compliance with a Residual Rights Agreement**

1916 708.44-1. Any party to a residual rights agreement may petition the Court that approved the
1917 agreement to compel any person who is bound by the agreement to comply with the agreement.
1918 The petition shall allege facts sufficient to show that a person who is bound by the agreement is
1919 not in compliance with the agreement and that the petitioner, before filing the petition, attempted
1920 in good faith to resolve the dispute giving rise to the filing of the petition. The petition may also
1921 allege facts showing that the noncompliance with the agreement is not in the best interests of the
1922 child.

1923 708.44-2. After receiving a petition for action regarding a residual rights contact agreement the
1924 Court shall set a date and time for a hearing on the petition and shall provide notice of the
1925 hearing to all parties to the agreement and may reappoint a guardian ad litem for the child.

1926 708.44-3. If the Court finds, after hearing, that any person bound by the agreement is not in
1927 compliance with the agreement and that the petitioner, before filing the petition, attempted in
1928 good faith to resolve the dispute giving rise to the filing of the petition, the Court shall issue an
1929 order requiring the person to comply with the agreement and may find a party in contempt.

1930 708.44-4. The Court may not revoke a termination of parental rights order or an order of
1931 customary adoption because an adoptive parent or other custodian of the child or a birth parent,
1932 birth sibling, or other birth relative of the child fails to comply with a residual rights agreement;
1933 however, the parties may return to peacemaking to revise the agreement, or the Court may
1934 amend an order if it finds an amendment to the order is in the best interests of the child.
1935

1936 **708.45. Peacemaking and Mediation**

1937 708.45-1. The Court may refer the parties to peacemaking or mediation if the parties agree to
1938 attend peacemaking or mediation. The Court shall not refer the parties to peacemaking or
1939 mediation if attending the session will cause undue hardship or would endanger the health or
1940 safety of a party.

1941 708.45-2. When the parties attend peacemaking or mediation based on a referral from the Court,
1942 the Court shall enter an order finding good cause to suspend the time limits established under this
1943 law.
1944

1945 **708.46. Appeals**

1946 708.46-1. Appeals of all orders issued under this law shall be heard by the Nation's Court of
1947 Appeals in accordance with the Rules of Appellate Procedure.
1948

1949 **708.47. Liability**

1950 708.47-1. No liability shall attach to the Department, Indian Child Welfare Worker, the Nation's
1951 Child Welfare Attorney or any person acting under their authority for statements, acts or
1952 omissions made in good faith while in the course of activities taken under this law.
1953

1954 *End.*

1955 Adopted – BC- _____

FINANCE ADMINISTRATION
Fiscal Impact Statement



MEMORANDUM

DATE: July 12, 2017
 FROM: Rae Skenandore, Financial Management Analyst
 TO: Larry Barton, Chief Financial Officer
 Ralinda Ninham-Lamberies, Assistant Chief Financial Officer
 RE: **Financial Impact of the Children's Code**

I. Estimated Fiscal Impact Summary

Law: Children's Code		Draft 5
Implementing Agency	Indian Child Welfare Cultural Heritage Judiciary Oneida Law Office	
Estimated time to comply	Approximately 18 months from approval	
Estimated Impact	Current Fiscal Year	10 Year Estimate*
Start up	\$63,838	
Personnel	\$889,304	\$11,517,745
Child Placement Cost	\$0	\$14,616,000
Other Expenses	\$0	\$ 552,321
Savings due to Board Dissolution	\$-138,708	\$-1,525,788
Total Estimated Fiscal Impact	\$814,433	\$26,160,278
Revenue and cost considerations	Sustainability	
Uncertainties and Unknowns	If there will be any reimbursement from the counties for the placement of foster children through 161 Act agreements.	

II. Background

A. Legislative History

This is new legislation that has been in development since 2012.

*Please see the spreadsheet & assumptions for more details on the projections.

B. Summary of Content

1. It is the goal of this Code to allow the Nation to exercise jurisdiction over its children who are in the need of protection or services and ensure that child welfare cases involving Oneida children are handled on the Reservation where more family members are located and more Tribal foster homes are available. Furthermore, it is the hope that the Code will bring Oneida children and their families closer to the Nation's resources and keep these families near the Reservation which may result in a higher percentage of reunifications and lower the number of unstable families. Due to the extent of the legislation, the following is simply an outline of the content. Please see the Legislative Analysis for the details of the content.

- a) Oneida Jurisdiction
- b) Department's Duties & Responsibilities
- c) Guardians ad Litem
- d) Advocates
- e) Cultural Wellness Facilitator and Healer
- f) Placement Preference prioritized order
 - (1) A member of the child's immediate or extended family
 - (2) A family clan member
 - (3) A member of the Nation
 - (4) Descendants of the Nation
 - (5) A member of another federally recognized tribe
 - (6) Fictive kin within the Nation community
 - (7) Fictive kin outside the Nation community
 - (8) Any other person not listed above
- g) Notice of Petitions
- h) Hearings (General)
- i) Discovery & Records.
- j) Taking a Child into Custody Process.
- k) Emergency Custody Hearing.
- l) Children in Need of Protection (CHIPS) Proceedings
- m) Permanency Plans
- n) Change in Placement
- o) Trial Reunification.
- p) CHIPS Guardianship
- q) Termination of Parental Rights.
- r) Adoption
- s) Non-Compliance with Residual Rights Agreement
- t) Peacemaking and Mediation

- u) Appeals
- v) Liability

C. Methodology and Assumptions

1. A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.
2. Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.
3. The analysis was completed based on the information provided as of the date of this memo.

II. Agency

There are 12 new positions needed in four different areas. The areas needing additional staff are Cultural Heritage, Indian Child Welfare (ICW), the Oneida Law office and the Judiciary. Associated startup costs for the positions include equipment, training, supplies, etc. Once approved, the Law will not be implemented for approximately 18 months. This was determined to be the period of time needed to hire and train the new staff prior to taking any cases. As noted in the attached spreadsheet, the total administrative expenses for the first 18 months is approximately \$814,433. Finance has been informed that all positions, except for the attorney, are included in the Fiscal Year 2018 budget.

According to ICW, unless there are special circumstances, Oneida will only exercise jurisdiction over new cases. New cases are expected to rise by approximately 15 per year and will peak at approximately 78 cases in year 7 (seven).

The following is from an administrative memo from the State of Wisconsin memo series DCFS 2008 – 11 Department of Health and Family Services June 24, 2008 Division of Children and Family Services Re: Guidelines for Implementation of Act 161 Agreements (Out-of-Home Placements of Indian Children by Tribal Courts)

“1983 Wisconsin Act 161 became effective March 23, 1984. The Act creates a mechanism for County Departments of Social or Human Services to make payments for costs of out-of-home placements of Indian children when the placement is ordered by a Tribal Court and the county and the Tribe have entered into a written agreement regarding the circumstances under which such payments will be made. Finally, the Act acknowledges the authority of Tribes as sovereign nations to license foster homes located

on reservation lands by sanctioning payments for these placements under such agreements.

To implement Act 161, it is necessary for Tribal governments and counties to negotiate written agreements regarding payment of out-of-home placement costs. Department of Health and Family Services staff will, if requested, facilitate the negotiation process. Agreements may be general or case specific, although it is anticipated that most will be general in nature. The content and format of agreements will be largely a matter of joint preference by the parties. By necessity, however, all agreements must include:

- A. The names of the parties to the agreement.*
- B. Language that complies with federal statutory and regulatory requirements as provided to the parties by the Department of Health and Family Services.*
- C. The period covered by the agreement.*
- D. The procedures to be used for placements.*
- E. The circumstances under which payments shall be made.*

All agreements must also include provisions related to Permanency Planning. The agreements must provide assurances that Federal and State requirements will be met”.

The Nation will be working with both Brown and Outagamie Counties to negotiate the 161 Agreements. However, in the absence of a signed agreement at the time of this analysis, the projections are based on the maximum allowable payment per child placed in foster care. The projections do not account for children in need of a specialized treatment facility, as it is indeterminate due to the number of variables involved.

Utilizing the maximum allowable for placement and the projected caseload, the estimated cost in year two is approximately \$360,000. The caseload is expected to peak in year seven at 78 cases and a cost of approximately \$1,872,000. The caseload is expected to remain near that level going forward. Adding the administrative costs to the cost for placement, the total cost of the legislation over the next 10 years is approximately \$26,686,066.

Legislation will be implemented approximately 18 months after approval.

Personnel	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	
Cultural Heritage												
Cultural Facilitator - Wellness	\$ 65,872	\$ 67,519	\$ 69,207	\$ 70,937	\$ 72,711	\$ 74,528	\$ 76,392	\$ 78,301	\$ 80,259	\$ 82,265	\$ 84,322	
Cultural Facilitator - Wellness	\$ 65,872	\$ 67,519	\$ 69,207	\$ 70,937	\$ 72,711	\$ 74,528	\$ 76,392	\$ 78,301	\$ 80,259	\$ 82,265	\$ 84,322	
BIA-ICW												
Intake Supervisor	\$ 106,970	\$ 109,644	\$ 112,385	\$ 115,195	\$ 118,074	\$ 121,026	\$ 124,052	\$ 127,153	\$ 130,332	\$ 133,590	\$ 136,930	
Child Placement Coordinator	\$ 80,899	\$ 82,922	\$ 84,995	\$ 87,120	\$ 89,298	\$ 91,530	\$ 93,818	\$ 96,164	\$ 98,568	\$ 101,032	\$ 103,558	
On-Going Social Worker	\$ 93,044	\$ 95,370	\$ 97,754	\$ 100,198	\$ 102,703	\$ 105,271	\$ 107,902	\$ 110,600	\$ 113,365	\$ 116,199	\$ 119,104	
On-Going Social Worker	\$ 93,044	\$ 95,370	\$ 97,754	\$ 100,198	\$ 102,703	\$ 105,271	\$ 107,902	\$ 110,600	\$ 113,365	\$ 116,199	\$ 119,104	
Intake/Investigator	\$ 93,044	\$ 95,370	\$ 97,754	\$ 100,198	\$ 102,703	\$ 105,271	\$ 107,902	\$ 110,600	\$ 113,365	\$ 116,199	\$ 119,104	
Parenting Coordinator	\$ 62,932	\$ 64,506	\$ 66,118	\$ 67,771	\$ 69,466	\$ 71,202	\$ 72,982	\$ 74,807	\$ 76,677	\$ 78,594	\$ 80,559	
Security Officer (Shared Expense)	\$ 29,147	\$ 29,876	\$ 30,623	\$ 31,388	\$ 32,173	\$ 32,977	\$ 33,802	\$ 34,647	\$ 35,513	\$ 36,401	\$ 37,311	
Peremium Pay-On Call	\$ 8,096	\$ 8,299	\$ 8,506	\$ 8,719	\$ 8,937	\$ 9,160	\$ 9,389	\$ 9,624	\$ 9,865	\$ 10,111	\$ 10,364	
Oneida Law Office												
Tribal Attorney	\$ 121,446	\$ 124,482	\$ 127,594	\$ 130,784	\$ 134,054	\$ 137,405	\$ 140,840	\$ 144,361	\$ 147,970	\$ 151,669	\$ 155,461	
Oneida Judiciary												
Family Court Judge	\$ 162,705	\$ 166,773	\$ 170,942	\$ 175,216	\$ 179,596	\$ 184,086	\$ 188,688	\$ 193,405	\$ 198,241	\$ 203,197	\$ 208,276	
Family Court Clerk of Court	\$ 36,239	\$ 74,291	\$ 76,148	\$ 78,052	\$ 80,003	\$ 82,003	\$ 84,053	\$ 86,155	\$ 88,309	\$ 90,516	\$ 92,779	
Subtotal Personnel Costs	\$ 1,019,312	\$ 1,081,940	\$ 1,108,988	\$ 1,136,713	\$ 1,165,131	\$ 1,194,259	\$ 1,224,116	\$ 1,254,718	\$ 1,286,086	\$ 1,318,239	\$ 1,351,195	
*Title IV E reimbursable personnel expenses	21.79%	\$ (130,008)	\$ (133,258)	\$ (136,590)	\$ (140,004)	\$ (143,505)	\$ (147,092)	\$ (150,769)	\$ (154,539)	\$ (158,402)	\$ (162,362)	\$ (166,421)
Total Personnel Costs	\$ 889,304	\$ 948,682	\$ 972,399	\$ 996,709	\$ 1,021,626	\$ 1,047,167	\$ 1,073,346	\$ 1,100,180	\$ 1,127,684	\$ 1,155,876	\$ 1,184,773	
Annual expenses of additional six (Per staff												
Supplies	\$ 150	\$ 900	\$ 923	\$ 946	\$ 969	\$ 993	\$ 1,018	\$ 1,044	\$ 1,070	\$ 1,097	\$ 1,124	\$ 1,152
Office Furniture-One Time Expense	\$ 2,500	\$ 15,000										
Computer/Printer-One Time Expens	\$ 1,050	\$ 6,300										
Phones	\$ 600	\$ 3,600	\$ 3,690	\$ 3,782	\$ 3,877	\$ 3,974	\$ 4,073	\$ 4,175	\$ 4,279	\$ 4,386	\$ 4,496	\$ 4,608
Depreciation	\$ 5,200	\$ 5,200	\$ 5,330	\$ 5,463	\$ 5,600	\$ 5,740	\$ 5,883	\$ 6,030	\$ 6,181	\$ 6,336	\$ 6,494	\$ 6,656
Heat & Lights	\$ 375	\$ 2,250	\$ 2,306	\$ 2,364	\$ 2,423	\$ 2,484	\$ 2,546	\$ 2,609	\$ 2,675	\$ 2,741	\$ 2,810	\$ 2,880
Water & Sewer	\$ 20	\$ 120	\$ 123	\$ 126	\$ 129	\$ 132	\$ 136	\$ 139	\$ 143	\$ 146	\$ 150	\$ 154
Training/Travel/Education	\$ 1,000	\$ 6,000	\$ 6,150	\$ 6,304	\$ 6,461	\$ 6,623	\$ 6,788	\$ 6,958	\$ 7,132	\$ 7,310	\$ 7,493	\$ 7,681
Mileage	\$ 15,000	\$ 15,000	\$ 15,375	\$ 15,759	\$ 16,153	\$ 16,557	\$ 16,971	\$ 17,395	\$ 17,830	\$ 18,276	\$ 18,733	\$ 19,201
*Title IV E reimbursable expenses	21.79%	\$ (4,249)	\$ (4,355)	\$ (4,464)	\$ (4,576)	\$ (4,690)	\$ (4,807)	\$ (4,928)	\$ (5,051)	\$ (5,177)	\$ (5,306)	\$ (5,439)
Judiciary expenses												
WI Bar Dues	\$ 585	\$ 585	\$ 600	\$ 615	\$ 630	\$ 646	\$ 662	\$ 678	\$ 695	\$ 713	\$ 731	\$ 749
JustWare License	\$ 2,250	\$ 2,250	\$ 2,306	\$ 2,364	\$ 2,423	\$ 2,484	\$ 2,546	\$ 2,609	\$ 2,675	\$ 2,741	\$ 2,810	\$ 2,880
Training	\$ 5,000	\$ 5,000	\$ 5,125	\$ 5,253	\$ 5,384	\$ 5,519	\$ 5,657	\$ 5,798	\$ 5,943	\$ 6,092	\$ 6,244	\$ 6,400
Supplies & Materials	\$ 882	\$ 882	\$ 904	\$ 927	\$ 950	\$ 974	\$ 998	\$ 1,023	\$ 1,048	\$ 1,075	\$ 1,101	\$ 1,129
Guardian Ad Litem (increase)	\$ 5,000	\$ 5,000	\$ 5,125	\$ 5,253	\$ 5,384	\$ 5,519	\$ 5,657	\$ 5,798	\$ 5,943	\$ 6,092	\$ 6,244	\$ 6,400

Subtotal of expenses	\$ 63,838	\$ 43,601	\$ 44,691	\$ 45,809	\$ 46,954	\$ 48,128	\$ 49,331	\$ 50,564	\$ 51,828	\$ 53,124	\$ 54,452
Savings due to board dissolution	\$ (138,708)	\$ (138,708)	\$ (138,708)	\$ (138,708)	\$ (138,708)	\$ (138,708)	\$ (138,708)	\$ (138,708)	\$ (138,708)	\$ (138,708)	\$ (138,708)
Total Administrative Costs	\$ 814,433	\$ 853,575	\$ 878,382	\$ 903,809	\$ 929,872	\$ 956,587	\$ 983,969	\$ 1,012,036	\$ 1,040,805	\$ 1,070,292	\$ 1,100,517
Child Placement Cost											
New Caseload	\$ 360,000	\$ 720,000	\$ 1,080,000	\$ 1,440,000	\$ 1,800,000	\$ 1,872,000	\$ 1,848,000	\$ 1,848,000	\$ 1,824,000	\$ 1,824,000	\$ 1,824,000
Total	\$ 814,433	\$ 1,213,575	\$ 1,598,382	\$ 1,983,809	\$ 2,369,872	\$ 2,756,587	\$ 2,855,969	\$ 2,860,036	\$ 2,888,805	\$ 2,894,292	\$ 2,924,517

Assumptions

Assumes an approved budget at the start of the fiscal year

All wage & salaries are set at the midpoint of the FY2017 Wage Chart provided by HRD

Tribal rate of 39.3% is used for fringe

Mileage rate .535

Title IV E reimbursable personnel includes the attorney but not indirect costs

Premium is \$100/week for on call status.

Non-personnel reimbursable expenses under Title IV E include mileage, supplies, rent, telephone.

Due to a special one time grant for the Judiciary, Year 1 of the Clerk of court position will be reflected as .5 FTE and increase to 1 FTE in year two.

Child placement costs are estimated at the maximum allowed per child per month by the State

New cases are 20% of the annual projections

2.5% Inflation annually

Child Protection Board 2017 budget \$ 138,708

III. Financial Impact

The cost is approximately \$814,433 in year one and \$26,686,066 over the next 10 years with the dissolution of the Indian Child Welfare board. The cost is \$953,141 in year one and \$27,686,066 over the next 10 years without the dissolution of the Indian Child Welfare board.

IV. Recommendation

Finance does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Consider adoption of the amendments to the Cemetery Law

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="Adoption packet"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jennifer Falck, LRO Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



TO: Oneida Business Committee
 FROM: Brandon Stevens, LOC Chairperson
 DATE: July 26, 2017
 RE: Cemetery Law Amendments

Please find the following attached backup documentation for your consideration of the Cemetery Law Amendments:

1. Resolution: Cemetery Law Amendments
2. Statement of Effect: Cemetery Law Amendments
3. Cemetery Law Amendments- Legislative Analysis
4. Cemetery Law Amendments- Clean Draft
5. Cemetery Law Amendments- Redline to Current Draft
6. Cemetery Law Amendments- Fiscal Impact Statement

Overview

This resolution adopts amendments to the Cemetery Law as follows:

- To correct the name of the Cemetery, which was changed by resolution of the Oneida Land Commission on May 11, 2015 [*see also* 127.4-1]
- Designate Land Management with administrative and maintenance oversight [*see* 127.4-3 and 127.4-4];
- Clarify eligibility for interment and the process for disinterment; [*see* 127.4-3, 127.5 and 127.7];
- In accordance with existing law, delegate the Community Public Health Officer authority over situations involving decedents who have died of communicable diseases [*see* 127.4-5 and 127.6-1];
- Grant rulemaking authority to Land Management, the Environmental Resource Board, and the Community Public Health Officer [*see above and* 127.8]; and
- Update the complaint process regarding the implementation and enforcement of the Law [*see* 127.9].

On March 30, 2017, in accordance with the Legislative Procedures Act, a public meeting was held regarding this Law. The written comment period closed on April 6, 2017. Since verbal and written comments were provided, a responsive Public Meeting Comment Review memo (“memo”) was provided for the June 7, 2017 LOC meeting. On June 7, 2017 the LOC accepted the memo and directed minor changes to the draft. Subsequently, these changes were made (and are attached). This Law will become effective ten business days after the date of adoption of the resolution as identified in section 109.9-3 of the Legislative Procedures Act. The anticipated effective date will be Wednesday, August 9, 2017.

Requested Action

Approve the Resolution: Cemetery Law Amendments

Oneida Nation

Post Office Box 365

Phone: (920)869-2214

Oneida, WI 54155



BC Resolution # _____ Cemetery Law Amendments

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WHEREAS, the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, the Oneida Business Committee originally adopted the Cemetery Law through resolution BC-09-02-88-A; and

WHEREAS, the Amendments to the Law:

- Acknowledge the Oneida Sacred Burial Grounds, also known as Tsi' Tyeya' Tat'alih, in accordance with the May 11, 2015 resolution of the Oneida Land Commission;
- Delegate Land Management with administrative and maintenance oversight;
- Clarify eligibility for interment and the process for disinterment;
- Delegate the Community Public Health Officer authority over situations involving decedents who have died of communicable diseases, consistent with existing laws;
- Grant rulemaking authority to Land Management, the Environmental Resource Board, and the Community Public Health Officer; and
- Update the complaint process for this Law.

WHEREAS, a public meeting on the proposed Amendments was held on March 30, 2017 in accordance with the Legislative Procedures Act; and the written comment period closed on April 6, 2017. A responsive Public Meeting Comment Review memo was provided for the June 7, 2017 LOC meeting and the LOC accepted the memo and directed minor changes to the draft, which were made.

NOW THEREFORE BE IT RESOLVED, that the Cemetery Law Amendments are hereby adopted. This Law will become effective Wednesday, August 9, 2017.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



Statement of Effect

Cemetery Law Amendments

Summary

This Resolution adopts Amendments to the Cemetery Law (“Amendments” or “Law”) which:

1. Corrects the name of the Cemetery in accordance with the May 11, 2015 resolution of the Oneida Land Commission.
2. Delegates Land Management with administrative and maintenance oversight.
3. Clarifies eligibility for interment and the process for disinterment.
4. Delegates the Community Public Health Officer authority over situations involving decedents who have died of communicable diseases, consistent with existing laws.
5. Grants rulemaking authority to Land Management, the Environmental Resource Board, and the Community Public Health Officer.
6. Updates the complaint process for this law.

Submitted by: Kelly M. McAndrews, Staff Attorney, Oneida Law Office

Analysis by the Legislative Reference Office

This Law was originally adopted by Resolution BC-09-02-88-A. The actual revisions contained in these Amendments are listed above.

In accordance with the Legislative Procedures Act, a public meeting was held for these Amendments on March 30, 2017 and the public comment period expired on April 6, 2017. Oral and written comments were submitted and were addressed in a Public Meeting Comment Review memo (“memo”) submitted to the LOC for its June 7, 2017 meeting. At that meeting the LOC accepted the memo and directed minor changes to the Law, which were subsequently made.

The Nation does not currently have any other laws or resolutions that govern the Nation’s cemetery, but it does have the Emergency Management and Homeland Security law which delegates broad authority to the Public Health Officer to help prevent public health emergencies and limit the spread of communicable diseases. *See* Ch. 302. The above Amendments do not conflict with the Emergency Management and Homeland Security law, and better define the Public Health Officer’s responsibility for decedents being buried in the cemetery who died of certain communicable diseases and when a state of emergency related to public health is proclaimed. These changes are consistent with state and federal emergency preparedness laws and make clear the Nation retains its own authority over decedents buried in its cemetery. As to these Amendments, there is no applicable state or federal law that precludes the Nation from exercising its authority to manage its cemetery and those buried in it.

Conclusion

Adoption of this Resolution does not conflict with the Nation’s laws.



Cemetery Law Legislative Analysis

SECTION 1. BACKGROUND

REQUESTER: Oneida Law Office/ OBC	SPONSOR: David P. Jordan	DRAFTER: Kelly McAndrews	ANALYST: Maureen Perkins
Intent of the Amendments	Current amendments were brought forward to recognize the name of the Sacred Burial Grounds (Tsi? Tyeya?Tat'alih) and establish maintenance responsibilities.		
Purpose	Establish administrative authority for Oneida Nation cemeteries, establish maintenance responsibilities, govern the sale, transfer and recordkeeping of plots, establish eligibility criteria, establish a process for disinterment, and delegate authority pursuant to Oneida laws.		
Affected Entities	Trust Enrollment Department, Land Management, Oneida Land Commission, Environmental Resource Board, Community Public Health Officer, Oneida Police Department, Oneida Conservation Department, enrolled Tribal members, their families (including step children) and descendants who are or may be interred at an Oneida Nation cemetery		
Affected Legislation	Administrative Rulemaking, Public Use of Tribal Land, Emergency Management and Homeland Security		
Enforcement/Due Process	<p>The Environmental Resource Board shall promulgate rules concerning prohibited uses of Oneida Nation cemetery grounds [see 127.8-2]. The Oneida Police Department or Oneida Conservation Department may issue citations for violation of this law or the cemetery rules in accordance with applicable Oneida law [see 127.8-2(a)]. Criminal or any other unlawful activity occurring at an Oneida Nation cemetery shall be handled in accordance with applicable law [see 127.8-2(b)].</p> <p>Any Individual may file a complaint with Land Management regarding the implementation and enforcement of this law [see 127.9-1]. Land Management shall respond to the complaint with a remedy within 5 business days of the receipt of the complaint to the individual filing the complaint, the Oneida Land Commission and the Environmental Resource Board [see 127.9-2].</p>		
Public Meeting	A public meeting was held March 30, 2017. The LOC considered all comments on June 7, 2017 and made minor changes to the draft based upon public comments received.		

1 SECTION 2. LEGISLATIVE DEVELOPMENT

- 2 A. The Legislative Operating Committee is considering the proposed amendments to establish
3 maintenance responsibilities with the appropriate department and also to recognize the Oneida name
4 of the existing cemetery. Additional amendments have evolved through the consultation process with
5 affected entities.
- 6 B. The Oneida Nation Cemetery is non-denominational and benefits the Oneida community by
7 providing a resting place for all Oneida members and their families.
8

9 SECTION 3. CONSULTATION

- 10 A. The Oneida Law Office staff consulted with the Community Public Health Officer and area coroner's
11 offices to include applicable sections of the amendments. Additionally, Land Management and the
12 Trust Enrollment Department were consulted to identify the appropriate entity to manage the Nation's
13 cemetery.
14

15 SECTION 4. PROCESS

- 16 A. The appropriate legislative process has been followed to create the amendments.
17 B. The current amendments were added to the Active Files List on August 5, 2015. Since that time
18 multiple work meetings have occurred. A public meeting was held March 30, 2017.
19

20 SECTION 5. CONTENTS OF THE AMENDMENTS

- 21 A. The law has been amended as follows:

22 Definitions:

- 23 • The purpose section was updated to include administrative authority for Oneida Nation
24 cemeteries on the Oneida Reservation, maintenance responsibility, govern the transfer and
25 recordkeeping of plots, establish a process for disinterment and delegate authority pursuant to
26 Oneida laws [see 127.1-1].
- 27 • Several definitions were added [see 127.3-1]:
- 28 ○ Decedent means a person who has died.
 - 29 ○ Disinterment permit means the form established by Land Management to authorize
30 removal of a human corpse from a grave or tomb.
 - 31 ○ Judiciary means the judicial system that was established by Oneida General Tribal
32 Council to administer the judicial authorities and responsibilities of the Oneida Nation.
 - 33 ○ Remains means the body of a deceased person, regardless of its state, and includes
34 cremated remains. "Remains" is synonymous and may be used interchangeably with
35 "decedent" and "corpse".
 - 36 ○ Reservation means all the lands and waters within the exterior boundaries of the
37 Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida
38 7 Stat. 566, and any lands added thereto pursuant to federal law.
 - 39 ○ Rule means a set of requirements, including citation fees and penalty schedules, in
40 accordance with the Administrative Rulemaking law based on authority delegated in this
41 law in order to implement, interpret and/or enforce this law.
- 42 • The definition for family was expanded to include additional relationships beyond an Oneida
43 Nation member's parent, spouse and children:
- 44 ○ Family means husband, wife, mother, father, son, daughter, brother, sister, grandparent,
45 grandchild, aunt, uncle, niece, nephew, mother-in-law, father-in-law, daughter-in-law,
46 son-in-law, brother-in-law, sister-in-law, step-parent and step-children as established
47 through a certified copy of the original marriage license, foster children, adopted
48 children, kinship and fictive kinship relationships and/or a person who accepts legal
49 responsibility for the decedent [see 127.3-1(e)].
- 50 • The following definitions were removed:

- 51 ○ Days was removed because the standard definition was used in the current law and it is
52 not necessary to define a word used in the everyday sense *[see 127.3-1(a) of current*
53 *law]*.
- 54 ○ Tribe or Tribal *[see 127.3-1(g) of current law]* was removed and replaced with Nation
55 *[see 127.3-1(h)]* to refer to the Oneida Nation in alignment with the amended Oneida
56 Nation Constitution.

57 **Administration and Authority**

- 58 • Oneida Sacred Burials Grounds, also known as Tsi? Tyeya?Tat'alih, was recognized *[see 127.4-*
59 *1]*.
- 60 • Administrative authority changed from the Trust Enrollment Department to Land Management
61 *[see 127.4-3]*. Additional administrative duties for Land Management include:
62 ○ Issuing disinterment permits *[see 127.4-3(a)]*.
63 ○ Maintaining records concerning all plots *[see 127.4-3(e)]*.
64 ○ Requesting additional portions of land to be designated for use as an Oneida Nation
65 cemetery *[see 127.4-3(f)]*.
- 66 • Land Management has been designated to maintain Oneida Nation cemeteries *[see 127.4-4]*.
67 Additional maintenance responsibilities include:
68 ○ ensuring appearance is kept in accordance with established rules *[see 127.4-4(b)]* which
69 they shall create *[see 127.8-1]*,
70 ○ entering into agreements to meet maintenance responsibilities *[see 127.4-4(c)]*, and
71 ○ oversight of any position created to care for the cemeteries *[see 127.4-4(d)]*.
- 72 • A public health emergency and communicable diseases section was added to the law which gives
73 the Community Public Health Officer authority over situations that arise involving a person who
74 have died of communicable diseases *[see 127.4-5]*.
75 ○ The Community Public Health Officer shall determine conditions of disposal of a
76 decedent with a communicable disease dangerous to public health *[see 127.4-5(a)]*. A
77 corresponding list of communicable diseases shall be maintained and provided to affected
78 departments *[see 127.4-5(a)(1)]*.
79 ○ Require labeling of remains of a decedent with a communicable disease *[see 127.4-5(b)]*.
80 ○ Maintain or require the maintenance of a written or electronic record of all remains and if
81 unknown may request a local coroner or medical examiner to obtain any fingerprints,
82 photographs, or identifying dental information and / or collect a DNA sample from the
83 remains and transmit this information to any interested public health authority *[see 127.4-*
84 *5(c)]*.
- 85 • Repatriated remains were added to the list of eligibility for interment in an Oneida Nation
86 cemetery *[see 127.5-1(b)(2)]*.
- 87 • The requirement that the Enrollment Department is present at each disinterment and reinterment
88 and restrictions for who may be present during disinterment or reinterment have been removed
89 *[see 127.6-7(g) of current law]*.
- 90 • Vendors performing opening and closing are now required to have the qualifications and
91 experience to perform openings for the burial of caskets *[see 127.6-3(c)(1)]*.
- 92 • Land Management is now responsible to provide information concerning the potential effects if a
93 burial container is not used *[see 127.6-4]*.

- 94 • The requirements for disinterment have been amended and disinterment no longer requires an
95 order from the Judiciary. Disinterment can now take place with an order from the Judiciary, the
96 issuance of a disinterment permit, or reburial by Land Management to resolve a recordkeeping
97 error *[see 127.7-1(a) to (c)]*.
- 98 ○ The list of persons who can request a disinterment has expanded to include:
99 An individual, as designated in writing by the decedent as listed in the Authorization for
100 Final Disposition *[see 127.7-3(b)(1)]*.
- 101 ○ Any other person authorized, under obligation, or agreeing to dispose of the decedent's
102 corpse *[see 127.7-3(b)(7)]*.
- 103 • Complaints regarding the implementation or enforcement of this law are now filed with Land
104 Management rather than the Oneida Trust Enrollment Committee *[see 127.9-1]*. Land
105 Management shall respond to complaints in writing to the individual filing the complaint, Oneida
106 Land Commission and to the Environmental Resource Board within 5 days *[see 127.9-2]*.

107 **Rulemaking Authority**

108 The following entities have been granted rulemaking authority under this law in accordance with the
109 Administrative Rulemaking law *[see Administrative Rulemaking, 1 O.C. 106]*.

- 110 • Land Management shall create rules in order to carry out their responsibilities under this law *[see*
111 *127.4-3(j)]*.
- 112 • Land Management shall establish rules related to the appearance and maintenance of an Oneida
113 Nation cemetery *[see 127.4-4(b) and 127.8-1]*.
- 114 • Land Management shall create rules regarding plot and marking fees *[see 127.6-3]*.
- 115 • Land Management shall establish rules regarding maximum height, width and thickness
116 requirements for monuments or flush markers placed at a plot, as well as the types of materials
117 that may be used for monuments and flush markers *[see 127.6-6]*.
- 118 • The Environmental Resource Board has been granted rulemaking authority regarding provisions
119 related to the Public Use of Tribal Lands law *[see Public Use of Tribal Land, 6 O.C. 609.4(g)]*
120 and shall promulgate rules related to prohibited uses of Oneida Nation cemetery grounds *[see*
121 *127.8-2]*.

122 **B.** The law has been significantly redrafted.

124 **SECTION 6. INTENT**

- 125 **A.** The purpose of the law has been updated to clearly state the intent is to establish administrative
126 authority for the Oneida cemetery, establish cemetery maintenance responsibility, govern the sale,
127 transfer and recordkeeping of plots, establish eligibility for interment, establish a process for
128 disinterment, and delegate rulemaking authority.
- 129 **B.** It is clear that the law applies to those eligible for interment, those who visit the Oneida cemetery, the
130 Trust Enrollment Department, Land Management, Oneida Police Department, Oneida Conservation
131 Department, the Environmental Resource Board, Oneida Land Commission and the Community Public
132 Health Officer.

134 **SECTION 7. EFFECT ON EXISTING LEGISLATION**

- 135 **A.** No Oneida laws will be impacted by this legislation and there are no conflicts with existing legislation.

137 **SECTION 8. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR**
138 **OBLIGATIONS**

139 A. The proposed legislation will not affect existing rights of members of the Nation.

140 B. Due process was addressed in the law:

- 141 ○ The Environmental Resource Board shall promulgate rules concerning prohibited uses of
142 Oneida Nation cemetery grounds *[see 127.8-2]*.
- 143 ○ The Oneida Police Department or Oneida Conservation Department may issue citations
144 for violation of this law or the cemetery rules in accordance with applicable Oneida law
145 *[see 127.8-2(a)]*.
- 146 ○ Criminal or any other unlawful activity occurring at an Oneida Nation cemetery shall be
147 handled in accordance with applicable law *[see 127.8-2(b)]*.
- 148 ○ Any Individual may file a complaint with Land Management regarding the
149 implementation and enforcement of this law *[see 127.9-1]*. Land Management shall
150 respond to the complaint with a remedy within 5 business days of the receipt of the
151 complaint to the individual filing the complaint, the Oneida Land Commission and the
152 Environmental Resource Board *[see 127.9-2]*.

153 D. Land Management will now be responsible to enter into contracts with the appropriate vendor to
154 carry out applicable provisions in the law *[see 127.4-3(j) and 127.4-4(c)]*.

155 E. Land Management will now be responsible for setting fees and rules in accordance with the
156 Administrative Rulemaking law *[see 127.6-3]*.

157

158 **SECTION 9. ENFORCEMENT**

159 A. The Oneida Police Department or Oneida Conservation may issue citations for violation of this law or
160 the cemetery rules in accordance with applicable Oneida law *[see 127.8-2(a)]*. Criminal or any other
161 unlawful activity occurring at an Oneida Nation cemetery shall be handled in accordance with
162 applicable law *[see 127.8-2(b)]*.

163 B. There are existing human resources available for enforcement.

164

165 **SECTION 10. ACCOUNTABILITY**

166 A. Land Management is responsible for administration *[see 127.4-3]* and maintenance *[127.4-4]* of the
167 Oneida Cemetery. The Community Public Health Officer is responsible for issuing and enforcing
168 orders under the law including the power to take possession or control of any remains and make
169 orders specific to embalming, interment, cremation, disinterment, transportation, or other disposal
170 *[see 127.4-5]*.

171 B. The Community Public Health Officer shall provide and maintain a list of communicable diseases
172 and other notifiable conditions to affected departments and the public by request *[see 127.4-5(a)(1)]*.

173

174

175

Title 1. Government and Finances– Chapter 127**CEMETERY LAW****Tsi? Lotiya?tata Olihwa'ke***The matters concerning when they bury the body*

6	127.1. Purpose and Policy	11	127.6. Interment and Plots
7	127.2. Adoption, Amendment, Repeal	12	127.7. Disinterment
8	127.3. Definitions	13	127.8. Prohibited Items and Behavior on Cemetery Grounds
9	127.4. Administration and Authority	14	127.9. Reporting.
10	127.5. Eligibility and Ownership	15	

16

127.1. Purpose and Policy

17 127.1-1. *Purpose.* The purpose of this law is to establish administrative authority for Oneida
18 Nation cemeteries on the Oneida Reservation, establish cemetery maintenance responsibility,
19 govern the sale, transfer and recordkeeping of plots, establish who is eligible for interment,
20 establish a process for disinterment, and delegate authority pursuant to Oneida laws.

21 127.1-2. *Policy.* It is the policy of the Nation that all enrolled Oneida Nation members, their
22 families and descendants may be interred in an Oneida Nation cemetery.
23
24

127.2. Adoption, Amendment, Repeal

25 127.2-1. This law was adopted by the Oneida Business Committee by resolution BC-5-19-89-E
26 and amended by resolutions BC-6-29-05-A, BC-1-14-09-E, BC-07-23-14-B and BC-_____.

27 127.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the
28 Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures
29 Act.
30

31 127.2-3. Should a provision of this law or the application thereof to any person or circumstances
32 be held as invalid, such invalidity shall not affect other provisions of this law which are
33 considered to have legal force without the invalid portions.

34 127.2-4. In the event of a conflict between a provision of this law and a provision of another
35 law, the provisions of this law shall control.

36 127.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
37

127.3. Definitions

38 127.3-1. This section shall govern the definitions of words and phrases used within this law. All
39 words not defined herein shall be used in their ordinary and everyday sense.

40 (a) “Decedent” means a person who has died.

41 (b) “Descendant” means a person who is not enrolled in the Nation, but is a blood
42 relative in the direct line of descent of an Oneida Nation member.

43 (c) “Disinterment” means to exhume interred human remains or cremated human
44 remains.
45

46 (d) “Disinterment permit” means the form established by Land Management to authorize
47 removal of a human corpse from a grave or tomb.

48 (e) “Family” means husband, wife, mother, father, son, daughter, brother, sister,
49 grandparent, grandchild, aunt, uncle, niece, nephew, mother-in-law, father-in-law,
50 daughter-in-law, son-in-law, brother-in-law, sister-in-law, step-parent and step-children
51 as established through a certified copy of the original marriage license, foster children,
52 adopted children, kinship and fictive kinship relationships and/or a person who accepts
53 legal responsibility for the decedent.

54 (f) “Interment” means to bury remains.

55 (g) “Judiciary” means the judicial system that was established by Oneida General Tribal
56 Council to administer the judicial authorities and responsibilities of the Oneida Nation.

57 (h) “Nation” means the Oneida Nation.

58 (i) “Reinterment” means to rebury remains.

59 (j) “Remains” means the body of a deceased person, regardless of its state, and includes
60 cremated remains. “Remains” is synonymous and may be used interchangeably with
61 “decedent” and “corpse”.

62 (k) “Reservation” means all the lands and waters within the exterior boundaries of the
63 Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida
64 7 Stat. 566, and any lands added thereto pursuant to federal law.

65 (l) “Rule” means a set of requirements, including citation fees and penalty schedules, in
66 accordance with the Administrative Rulemaking law based on authority delegated in this
67 law in order to implement, interpret and/or enforce this law.

68 69 **127.4. Administration and Authority**

70 127.4-1. The land designation, administrative duties and maintenance responsibilities for the
71 Oneida Sacred Burial Grounds, also known as Tsi’ Tyeya’ Tat’alih and any other cemetery
72 owned by the Nation shall be as provided within this section.

73 127.4-2. *Land Designation Responsibilities.* The Oneida Land Commission shall designate
74 parcel(s) of land to be used for one (1) or more Oneida Nation cemeteries.

75 127.4-3. *Administrative Responsibilities.* Land Management shall be responsible for the
76 administrative duties for all Oneida Nation cemeteries. These duties include:

77 (a) Issuance of disinterment permits, where appropriate. An approved disinterment
78 permit constitutes authorization to transport the remains and reinter the disinterred
79 remains at an approved location within the boundaries of the Oneida Reservation. If the
80 remains are being transported outside the boundaries of the Oneida Reservation and/or
81 reinterment is occurring at a location outside the boundaries of the Oneida Reservation,
82 other laws may apply and the parties involved are responsible for compliance. Permits
83 shall include:

84 (1) Information that is necessary to identify the decedent;

85 (2) The date and place of death;

86 (3) The current place of interment;

87 (4) The intended place of interment, the name of the person requesting the
88 disinterment; and

89 (5) The name of the person in charge of the disinterment.

90 (b) Maintaining vital statistics of decedents interred, disinterred, and/or reinterred in an
91 Oneida Nation cemetery including data derived from certificates death, fetal death reports
92 or related reports, a report for final disposition, authorization for disinterment or
93 reinterment or related judicial order or any other data as determined by Land
94 Management.

95 (c) Creating long-term strategic plans for Oneida Nation cemeteries and reporting such
96 information as may be required by the Oneida Business Committee or General Tribal
97 Council.

98 (d) Causing portions of land designed to be used for an Oneida Nation cemetery to be
99 surveyed and mapped into plots, drives and walks.

100 (e) Maintain records concerning all plots.

101 (f) Requesting additional portions of land to be designated for use as an Oneida Nation
102 cemetery, if needed.

103 (g) Selling and transferring plots and restricting the use of plots.

104 (h) Administering accounting activities related to the sale or transfer of a plot.

105 (i) Determining how to utilize gifts to an Oneida Nation cemetery.

106 (j) Establishing rules, entering into agreements with person(s) or entities, where needed,
107 in order to carry out their responsibilities under this law.

108 127.4-4. *Maintenance Responsibilities.* Land Management shall be responsible for cemetery
109 maintenance duties including:

110 (a) Maintaining Oneida Nation cemetery grounds.

111 (b) Ensuring the appearance of an Oneida Nation cemetery is kept in accordance with any
112 established rules.

113 (c) Entering into agreements and communication with person(s) or entities, where
114 needed, in order to meet the maintenance responsibilities.

115 (d) Oversight of any position created to care for the cemetery.

116 127.4-5. *Public Health Emergency and Communicable Diseases.* The Community Public
117 Health Officer shall, in a state of emergency related to public health as duly proclaimed, issue
118 and enforce orders that are reasonable and necessary to provide for the safe disposal of remains
119 in an Oneida Nation cemetery. This includes the power to take possession or control of any
120 remains and make orders specific to embalming, interment, cremation, disinterment,
121 transportation, or other disposal. Additionally, the Community Public Health Officer may:

122 (a) Determine conditions and order a specific method of disposal of remains in an Oneida
123 Nation cemetery of a decedent who has died of a communicable disease that is dangerous
124 to public health, within a reasonable or necessary timeframe, as determined by the
125 Community Public Health Officer.

126 (1) The Community Public Health Officer shall provide and maintain a list of
127 communicable diseases and other notifiable conditions to affected departments
128 and the public by request.

129 (b) Require the labeling of all remains before disposal in an Oneida Nation cemetery with
130 all available identifying information and information concerning the circumstances of
131 death and, in addition, require the remains of a decedent with a communicable disease be
132 clearly tagged to indicate that remains contain a communicable disease and, if known, the
133 specific communicable disease.

134 (c) Maintain or require the maintenance of a written or electronic record of all remains
135 that are disposed of in an Oneida Nation cemetery, including all available identifying
136 information and information concerning the circumstances of death and disposal. These
137 written and electronic records shall be safeguarded following applicable privacy
138 standards and may only be released in accordance with applicable laws. If it is
139 impossible to identify remains prior to disposal in an Oneida Nation cemetery, the Public
140 Health Office or designee may request that the local coroner or medical examiner obtain
141 any fingerprints, photographs, or identifying dental information, and/ or collect a
142 specimen of deoxyribonucleic acid from the remains and transmit this information to any
143 interested public health authority.

144 127.4-6. *Other requirements.* Neither this section nor any other section of this law relieves any
145 person from all applicable legal, professional, or other requirements.

146

147 **127.5. Eligibility and Ownership**

148 127.5-1. *Eligibility.* The following persons may be interred in an Oneida Nation cemetery:

149 (a) An Oneida Nation member, his or her family, or descendants.

150 (b) Remains that are:

151 (1) Returned to the Nation;

152 (2) Repatriated; or

153 (3) Discovered on the Reservation if Oneida's Cultural Heritage Department,
154 along with any other appropriate Oneida entity has determined that the most
155 suitable place for interment of the remains is an Oneida Nation cemetery.

156 127.5-2. *Ownership of Plots.* Plots in an Oneida Nation cemetery may be purchased by anyone
157 for individuals eligible to be interred in an Oneida Nation cemetery, as defined in section 127.5-
158 1, but the owner of the plot shall be the individual for whom the plot was purchased, if living,
159 and shall be specified at purchase. Purchase of a plot does not result in any ownership rights in
160 the plot itself, but grants an individual the right to be interred in the plot or determine who will
161 be interred in the plot, subject to the eligibility requirements of this law.

162 (a) In the event the owner of a plot becomes ineligible to be interred in an Oneida Nation
163 cemetery, the plot shall be resold to the Nation in accordance with section 127.5-2(c).

164 (b) A plot is not inheritable, but may be transferred from the owner to an individual
165 eligible to be interred in an Oneida Nation cemetery. The transfer of a plot from one
166 owner to another shall be processed through Land Management.

167 (c) A plot may only be resold by the owner of the plot to the Nation through Land
168 Management. Plots resold to the Nation shall be bought for the original purchase price.

169 The following owners of plots may resell a plot to the Nation:

170 (1) Competent individuals who are at least eighteen (18) years of age;

171 (2) Individuals who are less than eighteen (18) years of age, with the written
172 permission of the original purchaser of the plot; and

173 (3) Incompetent individuals who are at least eighteen (18) years of age, with the
174 permission of their guardian or appropriate power of attorney.

175

176 **127.6. Interment and Plots**

177 127.6-1. All interments shall be approved by Land Management prior to interment to ensure the
178 health and safety of the public will not be endangered, that the plot is properly marked, and to
179 provide information to any company or contractor providing services for the interment.

180 (a) In any case in which a decedent will be buried in an Oneida Nation cemetery, Land
181 Management shall report any known situations involving communicable diseases to
182 Oneida's Community Public Health Officer for investigation. The Community Public
183 Health Officer may determine conditions for disposal of the remains in accordance with
184 section 127.4-5.

185 127.6-2. No interments will be scheduled on the observance of any Holiday recognized by the
186 Nation.

187 127.6-3. *Cost of Interment.* All fees for the cost of a plot and/or an interment, or disinterment or
188 re-interment, including all the below listed fees, are the responsibility of the decedent's estate,
189 if any, family assuming responsibility, or other individual assuming legal responsibility for the
190 remains, unless otherwise stated. Land Management shall create rules regarding plot and
191 marking fees.

192 (a) Plot fees shall be paid prior to interment.

193 (b) Marking fees for the plot or monument location shall be assessed and required each
194 time an interment occurs, regardless of container use or method of disposition.

195 (c) Opening and closing fees shall be determined by the vendor chosen.

196 (1) Any such vendor is required to have the qualifications and experience to
197 perform opening and closings. Family members or private persons lacking
198 qualifications or experience to perform burial related openings may not perform
199 openings for the burial of caskets.

200 (d) There shall be no plot fees or marking fees assessed for remains interred in
201 accordance with section 127.7-4. If the Nation or its contracted vendor opens or closes a
202 plot for the interment of human remains in accordance with section 127.7-4, no fees shall
203 be assessed for the opening or closing of the plot.

204 127.6-4. *Outer Burial Containers.* Outer burial containers, such as liners and vaults, while
205 recommended, are not required for interment. Land Management shall provide information
206 concerning the potential effects if a burial container is not used.

207 127.6-5. *Division of Plots.* Each plot may only be used for the interment of:

208 (a) one (1) human corpse;

209 (b) one (1) human corpse along with the cremated remains of one (1) other decedent; or

210 (c) the cremated remains of up to four (4) decedents.

211 127.6-6. *Monuments and Flush Markers.* No more than four (4) monuments or flush markers
212 shall be allowed per plot. If a plot is designated for more than two (2) decedents, only flush
213 markers can be installed outside of the designated headstone area. Land Management shall
214 establish rules regarding maximum height, width and thickness requirements for monuments or
215 flush markers placed at a plot. In addition, Land Management may establish the types of
216 materials that may be used for monuments or flush markers.

217 (a) No monuments/markers will be installed from November 1st through May 1st.

218

219 **127.7. Disinterment**

220 127.7-1. Disinterment from an Oneida Nation cemetery may occur pursuant to any of the
221 following; requirements for each are listed below:

222 (a) Issuance of an Order for Authorization of Disinterment and/or Reinterment by the
223 Oneida Judiciary;

224 (b) Land Management's issuance of a disinterment permit; or

225 (c) Reburial required by Land Management in accordance with section 127.7-4. .

226 127.7-2 Issuance of an Order for Authorization of Disinterment and/or Reinterment by the
227 Oneida Judiciary. The Oneida Judiciary may issue an Order for Authorization for Disinterment
228 and/or Reinterment as follows:

229 (a) When a petition for an Order for Authorization for Disinterment and/or Reinterment is
230 filed with the Oneida Judiciary, unless a hearing is held determining circumstances exist
231 that would reasonably justify dispensing of the notice requirement, the petitioner shall
232 serve a copy of the Petition for an Order for Authorization for Disinterment and/or
233 Reinterment upon Land Management and all members of the same or a prior class as
234 listed in section 127.7-3(b). A Petition for an Order for Authorization for Disinterment
235 and/ or Reinterment shall include all of the following:

236 (1) The decedent's name, date of death, and burial location;

237 (2) The requester's name, address, telephone number, and relationship with the
238 decedent;

239 (3) The requester's intent to obtain an order of disinterment/reinterment;

- 240 (4) The reason for the disinterment;
- 241 (5) The location of reinterment and/or certification that the petitioner will have
- 242 the remains cremated;
- 243 (6) Individual or entity responsible for the disinterment/reinterment; and
- 244 (7) That any objections shall be filed with the Judiciary within five (5) business
- 245 days of the notification, or may be presented at the hearing.
- 246 (b) Unless the Judiciary has found that grounds exist to dispense with Notice
- 247 requirements, the Judiciary shall set a hearing date on the Petition for Order for
- 248 Authorization for Disinterment and/or Reinterment at the earliest possible time after the
- 249 deadline for filing objections has passed and shall issue an Order on the matter within ten
- 250 (10) days after the hearing. The Judiciary may, for good cause, extend the time for
- 251 issuance of an Order for an additional ten (10) days. When entering its decision, the
- 252 Judiciary may also take into consideration:
- 253 (1) The cause and manner of the decedent's death, including whether the
- 254 Petitioner was convicted for a murder or homicide related offense in connection
- 255 with the decedent's death;
- 256 (2) Whether disinterment would create a known public health risk;
- 257 (3) The decedent's will or other evidence of the decedent's wishes concerning
- 258 final disposition, if known;
- 259 (4) Any objections filed with the Judiciary or presented at the hearing;
- 260 (5) Whether an order of disinterment or similar order from a court other than the
- 261 Judiciary has been issued;
- 262 (6) Whether any required permits regarding re-interment have been obtained; or
- 263 (7) Any other factor requiring consideration.
- 264 (c) The Judiciary may deny the Petition for Order for Authorization for Disinterment
- 265 and/or Reinterment based solely on an objection to the disinterment either filed or
- 266 presented by an individual with the same or a higher priority than the requester.
- 267 (d) *Appeals*. An appeal of an Order issued under this section shall be filed with the
- 268 Judiciary within five (5) business days after the order is issued. The Judiciary may
- 269 modify the appeal time frame if it is determined exigent circumstances exist requiring
- 270 more immediate disinterment. If no appeal is filed, disinterment shall take place within
- 271 sixty (60) days after the deadline for filing an appeal has passed. If an appeal is filed, a
- 272 stay of the disinterment may be ordered, but only after inquiry into the facts and a finding
- 273 that based on the facts it is reasonable to stay disinterment pending appeal.
- 274 127.7-3. *Land Management's issuance of a disinterment permit*. Land Management shall issue
- 275 a Permit for Disinterment when all of the following occur:
- 276 (a) The person in charge of the disinterment submits a complete Application for
- 277 Disinterment Permit to Land Management.
- 278 (b) The person in charge of the disinterment submits a complete Land Management
- 279 Consent Form, signed by any of the following persons, in the order of priority stated
- 280 below, when persons in prior classes are not available at the time of application, and in
- 281 the absence of actual notice of contrary indications by the decedent or actual notice of
- 282 opposition by a member of the same or a prior class:
- 283 (1) An individual, as designated in writing by the decedent as listed in the
- 284 Authorization for Final Disposition;
- 285 (2) The decedent's spouse;
- 286 (3) An adult son or daughter of the decedent;

- 287 (4) Either parent of the decedent;
288 (5) An adult brother or sister of the decedent;
289 (6) A guardian of the person of the decedent at the time of the decedent's death;
290 (7) Any other person authorized, under obligation, or agreeing to dispose of the
291 decedent's corpse.

292 (c) Land Management shall deny the request for a Disinterment Permit when an
293 objection to the disinterment is either filed or presented by an individual with the same or
294 a higher priority than the requester. In such cases, Land Management shall refer the
295 requester to the Judiciary.

296 127.7-4. *Reinterment by Land Management.* Land Management may reinter or disinter human
297 remains that are interred in an Oneida cemetery in another plot in the same cemetery under the
298 following circumstances:

- 299 (a) Reinterment is necessary to correct a recordkeeping error made by the Nation or its
300 designee when the human remains were first buried; and
301 (b) Notification concerning the need for reinterment is made to one of the following, in
302 descending order, by registered mail:
303 (1) The decedent's spouse;
304 (2) An adult son or daughter of the decedent;
305 (3) Either parent of the decedent; or
306 (4) An adult brother or sister of the decedent.

307 (c) Land Management shall maintain a record of its attempt to provide notification under
308 this section as part of Land Management's permanent records.

309 127.7-5. The Nation shall be responsible for making all arrangements and incurring all costs
310 associated with disinterment and reinterment due to a recordkeeping error on the Nation's behalf.

311

312 **127.8. Prohibited Items and Behavior on Cemetery Grounds**

313 127.8-1. Land Management shall promulgate rules concerning the maintenance and appearance
314 of Oneida Nation cemetery grounds which shall be publically posted, including on Oneida
315 Nation cemetery grounds. Land Management shall notify the Environmental Resource Board of
316 the current rules and any changes to such rules.

317 (a) Land Management or its designee may remove and dispose of any non-conforming
318 objects from plots and/or cemetery grounds.

319 127.8-2. In accordance with applicable Oneida law, the Environmental Resource Board shall
320 promulgate rules concerning prohibited uses of Oneida Nation cemetery grounds.

321 (a) The Oneida Police Department or Oneida Conservation Department may issue
322 citations for violation of this law or the cemetery rules in accordance with applicable
323 Oneida law.

324 (b) Criminal or any other unlawful activity occurring at an Oneida Nation cemetery shall
325 be handled in accordance with applicable law.

326

327 **127.9. Complaint Process**

328 127.9-1. Any individual may file a complaint with Land Management regarding the
329 implementation and enforcement of this law.

330 127.9-2. Within five (5) business days of the receipt of a complaint, Land Management shall
331 respond in writing indicating any action taken or planned action to remedy the complaint to the
332 individual that filed the complaint, if the address is known, to the Oneida Land Commission, and
333 to the Environmental Resource Board.

334
335
336

End.

-
- 337 BC-09-02-88-A (Adoption of the Burial Ordinance)
 - 338 BC-05-19-89-E (Adoption of Burial Ordinance)
 - 339 BC-02-23-05-F (Emergency Adoption of Amendments)
 - 340 BC-06-29-05-A (Permanent Adoption of Emergency Amendments)
 - 341 BC-1-14-09-E (Adoption of Cemetery Law)
 - 342 BC-10-09-13-B (Adoption of Emergency Amendments)
 - 343 BC-03-26-14-C (Extension of Emergency Amendments)
 - 344 BC-07-23-14-B (Adoption of Amendments)

Title 1. Government and Finances— Chapter 127

CEMETERY LAW

Tsi? Lotiya?tata Olihwa'ke

The matters concerning when they bury the body

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127.1. Purpose and Policy

127.1-1. Purpose. The purpose of this Lawlaw is to establish administrative authority for Oneida Nation cemeteries on the Oneida Reservation, establish cemetery maintenance responsibility, govern the sale, transfer and recordkeeping of plots and establish who is eligible for interment in, establish a Tribal cemetery on the Oneida Reservation process for disinterment, and delegate authority pursuant to Oneida laws.

127.1-2. Policy. It is the policy of the TribeNation that all enrolled TribalOneida Nation members, their families and descendants may be interred in a Tribal an Oneida Nation cemetery.

127.2. Adoption, Amendment, Repeal

127.2-1. This Lawlaw was adopted by the Oneida Business Committee by resolution BC-5-19-89-E and amended by resolutions BC-6-29-05-A, BC-1-14-09-E and BC-07-23-14-B. and BC-

127.2-2. This Lawlaw may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

127.2-3. Should a provision of this Lawlaw or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Lawlaw which are considered to have legal force without the invalid portions.

127.2-4. In the event of a conflict between a provision of this Lawlaw and a provision of another law, the provisions of this Lawlaw shall control. Provided that, this Law repeals the following:

- (a) BC-03-11-98-N (Resolution regarding Opposition to Disturbance/Removal of Human Burials
- (b) BC-2-18-98-A (Repatriated Human Remains)

127.2-5. This Lawlaw is adopted under authority of the Constitution of the Oneida Tribe of Indians of WisconsinNation.

127.3. Definitions

127.3-1. This section shall govern the definitions of words and phrases used within this Lawlaw. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) "Days" shall mean calendar days, unless otherwise specifically stated.
- (a) "Decedent" means a person who has died.
- (b) "Descendant" shall mean means a person who is not enrolled in the TribeNation, but is a blood relative in the direct line of descent of a Tribal an Oneida Nation member.
- (c) "Disinterment" shall mean means to exhume buried interred human remains or cremated human remains.

60 (d) “Disinterment permit” means the form established by Land Management to authorize
61 removal of a human corpse from a grave or tomb.

62 (e) “Family” shall mean a Tribal member’s means husband, wife, mother, father, son,
63 daughter, brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, mother-in-
64 law, father-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, step-parent,
65 spouse and step-children as established through a certified copy of the original marriage
66 license, foster children, adopted children, kinship and fictive kinship relationships and/or
67 a person who accepts legal responsibility for the decedent.

68 (e) “Interment” shall mean the act or ceremony of burying human remains or means to
69 bury remains.

70 (g) “Judiciary” means the judicial system that was established by Oneida General Tribal
71 Council to administer the judicial authorities and responsibilities of the Oneida Nation.

72 (h) “Nation” means the Oneida Nation.

73 (i) “Reinterment” means to rebury remains.

74 (j) “Remains” means the body of a deceased person, regardless of its state, and includes
75 cremated remains. “Remains” is synonymous and may be used interchangeably with
76 “decedent” and “corpse”.

77 (f) “Re-interment” shall mean to rebury human remains or cremated remains.

78 (g) “Tribe” or “Tribal” shall mean the Oneida Tribe of Indians of Wisconsin.

79
80 (k) “Reservation” means all the lands and waters within the exterior boundaries of the
81 Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida
82 7 Stat. 566, and any lands added thereto pursuant to federal law.

83 (l) “Rule” means a set of requirements, including citation fees and penalty schedules, in
84 accordance with the Administrative Rulemaking law based on authority delegated in this
85 law in order to implement, interpret and/or enforce this law.

86 87 **127.4. Administration and Authority**

88 127.4-1. The land designation, administrative duties and maintenance responsibilities for the
89 Oneida Sacred Burials Grounds, also known as Tsi? Tyeya?Tat’alih and any other cemetery
90 owned by the Nation shall be as provided within this section.

91 127.4-2. Land Designation Responsibilities. The Oneida Land Commission shall designate
92 parcel(s) of land to be used for one (1) or more Oneida Nation cemeteries.

93 127.4-3. Administrative Responsibilities. The Enrollment Department Land Management shall
94 be responsible for the administrative duties for all Oneida Nation cemeteries. These duties
95 include:

96 (a) Issuance of disinterment permits, where appropriate. An approved disinterment
97 permit constitutes authorization to transport the remains and reinter the disinterred
98 remains at an approved location within the boundaries of the Oneida Reservation. If the
99 remains are being transported outside the boundaries of the Oneida Reservation and/or
100 reinterment is occurring at a location outside the boundaries of the Oneida Reservation,
101 other laws may apply and the parties involved are responsible for compliance. Permits
102 shall include:

103 (1) Information that is necessary to identify the decedent;

104 (2) The date and place of death;

105 (3) The current place of interment;

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- 106 (4) The intended place of interment, the name of the person requesting the
107 disinterment; and
108 (5) The name of the person in charge of the disinterment.
109 (b) Maintaining vital statistics of ~~those~~ decedents interred ~~in a Tribal~~, disinterred, and/or
110 reinterred in an Oneida Nation cemetery, ~~creating~~ including data derived from certificates
111 death, fetal death reports or related reports, a report for final disposition, authorization for
112 disinterment or reinterment or related judicial order or any other data as determined by
113 Land Management.
114 (c) Creating long-term strategic plans for Tribal Oneida Nation cemeteries and reporting
115 such information as may be required by the Oneida Business Committee or General
116 Tribal Council.
117 (~~b~~-d) Causing portions of land designed to be used for a ~~Tribal~~an Oneida Nation
118 cemetery to be surveyed and mapped into plots, drives and walks.
119 (~~e~~) (e) Maintain records concerning all plots.
120 (f) Requesting additional portions of land to be designated for use as an Oneida Nation
121 cemetery, if needed.
122 (g) Selling and transferring plots and restricting the use of plots.
123 (~~d~~-h) Administering ~~all~~ payment accounting activities related to the sale or transfer of a
124 plot.
125 (e) Determining how to utilize gifts to a ~~Tribal~~an Oneida Nation cemetery.
126 (~~f~~) Maintaining Tribal cemeteries.
127 (~~g~~-j) Establishing ~~regulations or~~ rules, entering into agreements with person(s) or
128 entities, where needed, in order to carry out their responsibilities under this ~~Law~~.law.
129

127.5. Tribal Cemeteries

131 ~~127.5-1. The Oneida 4-4. Maintenance Responsibilities.~~ Land ~~Commission~~Management shall
132 designate parcel(s) of land to be used responsible for ~~one (1) or more Tribal cemeteries.~~cemetery
133 maintenance duties including:

134 ~~127.5-2.~~(a) Maintaining Oneida Nation cemetery grounds.

135 (b) Ensuring the appearance of an Oneida Nation cemetery is kept in accordance with any
136 established rules.

137 (c) Entering into agreements and communication with person(s) or entities, where
138 needed, in order to meet the maintenance responsibilities.

139 (d) Oversight of any position created to care for the cemetery.

140 127.4-5. Public Health Emergency and Communicable Diseases. The Community Public
141 Health Officer shall, in a state of emergency related to public health as duly proclaimed, issue
142 and enforce orders that are reasonable and necessary to provide for the safe disposal of remains
143 in an Oneida Nation cemetery. This includes the power to take possession or control of any
144 remains and make orders specific to embalming, interment, cremation, disinterment,
145 transportation, or other disposal. Additionally, the Community Public Health Officer may:

146 (a) Determine conditions and order a specific method of disposal of remains in an Oneida
147 Nation cemetery of a decedent who has died of a communicable disease that is dangerous
148 to public health, within a reasonable or necessary timeframe, as determined by the
149 Community Public Health Officer.

150 (1) The Community Public Health Officer shall provide and maintain a list of
151 communicable diseases and other notifiable conditions to affected departments
152 and the public by request.

(b) Require the labeling of all remains before disposal in an Oneida Nation cemetery with all available identifying information and information concerning the circumstances of death and, in addition, require the remains of a decedent with a communicable disease be clearly tagged to indicate that remains contain a communicable disease and, if known, the specific communicable disease.

(c) Maintain or require the maintenance of a written or electronic record of all remains that are disposed of in an Oneida Nation cemetery, including all available identifying information and information concerning the circumstances of death and disposal. These written and electronic records shall be safeguarded following applicable privacy standards and may only be released in accordance with applicable laws. If it is impossible to identify remains prior to disposal in an Oneida Nation cemetery, the Public Health Office or designee may request that the local coroner or medical examiner obtain any fingerprints, photographs, or identifying dental information, and/ or collect a specimen of deoxyribonucleic acid from the remains and transmit this information to any interested public health authority.

127.4-6. Other requirements. Neither this section nor any other section of this law relieves any person from all applicable legal, professional, or other requirements.

127.5. Eligibility and Ownership

127.5-1. Eligibility. The following persons may be interred in ~~a Tribal~~ an Oneida Nation cemetery:

(a) ~~A Tribal~~ An Oneida Nation member, his or her family ~~and, or~~ descendants.

(b) ~~Human remains~~ Remains that are:

(1) Returned to the ~~Tribe; or~~ Nation;

(2) Repatriated; or

(3) Discovered on the Reservation and the Enrollment Department, if Oneida's Cultural Heritage Department and, along with any other interested parties have appropriate Oneida entity has determined that the most suitable place for interment of the remains is a Tribal an Oneida Nation cemetery.

127.5-32. Ownership of Plots. Plots in ~~a Tribal~~ an Oneida Nation cemetery may be purchased by anyone for individuals eligible to be interred in ~~a Tribal~~ an Oneida Nation cemetery, as defined in section 127.5-2. The 1, but the owner of the plot shall be the individual for whom the plot was purchased, if living, and shall be specified at purchase. Purchase of a plot does not result in any ownership rights in the plot itself, but grants an individual the right to be interred in the plot or determine who will be interred in the plot, subject to the eligibility requirements of this ~~Law~~ law.

(a) In the event the owner of a plot becomes ineligible to be interred in ~~a Tribal~~ an Oneida Nation cemetery, ~~he or she shall resell~~ the plot shall be resold to the ~~Tribe~~ Nation in accordance with section 127.5-32(c).

(b) A plot is not inheritable, ~~and~~ but may ~~only~~ be transferred from ~~one~~ the owner to an individual eligible to be interred in ~~a Tribal~~ an Oneida Nation cemetery, ~~as defined in 127.5-2.~~ The transfer of a plot from one owner to another shall be processed through ~~the Enrollment Department~~ Land Management.

(c) A plot may only be ~~re-sold~~ resold by the owner of the plot to the ~~Tribe~~ Nation through ~~the Enrollment Department~~ Land Management. Plots ~~re-sold~~ resold to the ~~Tribe~~ Nation shall be bought for the original purchase price. The following owners of plots may resell a plot to the ~~Tribe~~ Nation:

(1) Competent individuals who are at least eighteen (18) years of age;

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- 200 | (2) Individuals who are less than eighteen (18) years of age, with the written
201 | permission of the original purchaser of the plot; and
202 | (3) Incompetent individuals who are at least eighteen (18) years of age, with the
203 | permission of their guardian or appropriate power of attorney.

205 | **127.6. Interment and Plots**

206 | 127.6-1. ~~All interments shall be approved by the Enrollment Department~~ Land Management
207 | prior to interment to ensure the health and safety of the public will not be endangered, that the
208 | plot is properly marked, and to provide information to any company or contractor providing
209 | services for the interment.

210 | (a) In any case in which a decedent will be buried in an Oneida Nation cemetery, Land
211 | Management shall report any known situations involving communicable diseases to
212 | Oneida's Community Public Health Officer for investigation. The Community Public
213 | Health Officer may determine conditions for disposal of the remains in accordance with
214 | section 127.4-5.

215 | 127.6-2. No interments will be scheduled on the observance of any Holiday recognized by the
216 | Nation.

217 | 127.6-3. Cost of Interment. All fees for the cost of a plot and/or an interment, or disinterment or
218 | re-interment, including all the below listed fees, are the responsibility of the deceased
219 | person's decedent's estate or, if any, family assuming responsibility, or other individual assuming
220 | legal responsibility for the remains, unless otherwise stated. Land Management shall create rules
221 | regarding plot and marking fees.

222 | (a) Plot fees shall be paid prior to interment. ~~The Oneida Business Committee, upon~~
223 | ~~recommendation of the Enrollment Department, shall set plot fees through resolution.~~

224 | (b) Marking fees for the plot or monument location shall be assessed and required each
225 | time an interment occurs, ~~whether the interment is of human remains, with or without a~~
226 | ~~casket, or cremated remains, regardless of container use or method of disposition.~~

227 | (c) Opening and closing fees shall be ~~assessed~~ determined by the vendor chosen ~~by the~~
228 | ~~deceased's family or estate.~~

229 | (1) Any such vendor is required to have the qualifications and experience to
230 | perform opening and closings. Family members or private persons lacking
231 | qualifications or experience to perform burial related openings may not perform
232 | openings for the burial of caskets.

233 | (d) There shall be no plot fees or marking fees assessed for ~~human~~ remains re-
234 | buried interred in accordance with ~~section 127.5-2(b), 7-4.~~ If the ~~Tribe~~ Nation or its
235 | contracted vendor opens or closes a plot for the ~~re-burial~~ interment of human remains in
236 | accordance with ~~section 127.5-2(b), 7-4,~~ no fees shall be assessed for the opening or
237 | closing of the plot. ~~Any fees for opening and closing a plot assessed by an outside~~
238 | ~~vendor shall be the responsibility of the Tribe.~~

239 | ~~127.6-34.~~ Outer Burial Containers. Outer burial containers, such as liners and vaults, while
240 | recommended, are not required for interment, ~~however if an outer burial container is purchased,~~
241 | ~~the company shall notify the Enrollment Department before delivering and installing it in the~~
242 | ~~designated plot in order to ensure the plot is properly prepared.~~ Land Management shall provide
243 | information concerning the potential effects if a burial container is not used.

244 | ~~127.6-4.~~ 127.6-5. Division of Plots. Each plot may only be used for the interment of:

245 | (a) one (1) or more human remains, corpse;

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246 (b) one (1) human corpse along with or without a casket(s) and/or the cremated remains
247 of one (1) other decedent; or

248 (c) the cremated remains of an individual(s) as determined by the Enrollment
249 Department up to four (4) decedents.

250 127.6-6. ~~127.6-5.~~ Monuments and Flush Markers. No more than four (4) monuments or flush
251 markers per plot shall be allowed. The Enrollment Department per plot. If a plot is designated
252 for more than two (2) decedents, only flush markers can be installed outside of the designated
253 headstone area. Land Management shall establish rules regarding maximum height, width and
254 thickness requirements for monuments or flush markers placed at a plot. In addition, the
255 Enrollment Department Land Management may establish the types of materials that may be used
256 for monuments or flush markers.

257 (a) No monuments/markers will be installed from November 1st through May 1st.

258
259 127.6-6. Decorations. The Enrollment Department shall remove all inappropriate and
260 deteriorated items left at a plot.

261 127.6-7. Disinterment. Disinterment from a Tribal cemetery shall only occur upon order of the
262 Tribe's judicial system. Disinterment is an extraordinary remedy that shall only be ordered when
263 all other reasonable means for obtaining the requester's objective have been exhausted and when
264 the Tribe's judicial system determines that substantial cause exists to order disinterment.

265 (a) A request to the Tribe's judicial system to issue an order for disinterment from a
266 Tribal 127.7-1. Disinterment from an Oneida Nation cemetery may be made by occur pursuant to
267 any of the following persons, in the following order; requirements for each are listed below:

268 (a) Issuance of priority: an Order for Authorization of Disinterment and/or Reinterment by
269 the Oneida Judiciary;

270 (1) The surviving spouse of the deceased.

271 (2) An adult child of the deceased.

272 (3) A parent of the deceased.

273 (4) An adult sibling of the deceased.

274 (5) A guardian of the person of the deceased at the time of the deceased's death.

275 (b) A requester shall notify the Enrollment Department and all individuals of the same or
276 a higher priority of his or her intent to request the Tribe's judicial system to issue an
277 order of disinterment. If any member of the same or a higher priority cannot be located,
278 this, along with the efforts taken to locate the individual, shall be reported to the Tribe's
279 judicial system. Notification shall specifically state:

280 (1) the (b) Land Management's issuance of a disinterment permit; or

281 (c) Reburial required by Land Management in accordance with section 127.7-4. .

282 127.7-2 Issuance of an Order for Authorization of Disinterment and/or Reinterment by the
283 Oneida Judiciary. The Oneida Judiciary may issue an Order for Authorization for Disinterment
284 and/or Reinterment as follows:

285 (a) When a petition for an Order for Authorization for Disinterment and/or Reinterment is
286 filed with the Oneida Judiciary, unless a hearing is held determining circumstances exist
287 that would reasonably justify dispensing of the notice requirement, the petitioner shall
288 serve a copy of the Petition for an Order for Authorization for Disinterment and/or
289 Reinterment upon Land Management and all members of the same or a prior class as
290 listed in section 127.7-3(b). A Petition for an Order for Authorization for Disinterment
291 and/ or Reinterment shall include all of the following:

292 (1) The decedent's name, date of death, and burial location;

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293 (2) The requester's name, address, telephone number, and relationship with the
 294 decedent;
 295 (3) The requester's intent to obtain an order of disinterment/reinterment;
 296 ~~(2) the~~ (4) The reason for the disinterment;
 297 ~~(3) the place~~ (5) The location of re-interment/reinterment and/or intent
 298 of certification that the requestor to petitioner will have humanthe remains
 299 cremated; and
 300 ~~(4) that~~ (6) Individual or entity responsible for the disinterment/reinterment; and
 301 (7) That any objections shall be filed with the Tribe's judicial systemJudiciary
 302 within five (5) business days of the notification, or may be presented at the
 303 hearing.

304 (c) Disinterment Process.

305 ~~(1) The Tribe's judicial system~~ (b) Unless the Judiciary has found that grounds exist to
 306 dispense with Notice requirements, the Judiciary shall set a hearing date on the
 307 disinterment requestPetition for Order for Authorization for Disinterment and/or
 308 Reinterment at the earliest possible time after the deadline for filing objections has passed
 309 and shall issue an orderOrder on the matter within ten (10) days after the hearing, taking.
 310 The Judiciary may, for good cause, extend the time for issuance of an Order for an
 311 additional ten (10) days. When entering its decision, the Judiciary may also take into
 312 consideration:

313 ~~(A) the manner in which the deceased died;~~

314 ~~(B) whether~~ (1) The cause and manner of the decedent's death, including whether
 315 the Petitioner was convicted for a murder or homicide related offense in
 316 connection with the decedent's death;

317 (2) Whether disinterment would create a known public health risk;

318 ~~(C)~~ (3) The decedent's will or other evidence of the decedent's wishes concerning
 319 final disposition, if known;

320 ~~(D) any~~ (4) Any objections filed with the Tribe's judicial systemJudiciary or
 321 presented at the hearing;

322 ~~(E) whether~~ (5) Whether an order of disinterment or similar order from a court
 323 other than the Tribe's judicial systemJudiciary has been issued; and

324 ~~(F) whether~~ (6) Whether any required permits regarding re-interment have been
 325 obtained; or

326 ~~(2) All of the factors listed in 127.6-~~ (7) Any other factor requiring consideration.

327 ~~(c) shall be considered when determining whether to allow disinterment, although the~~
 328 ~~Tribe's judicial system~~ The Judiciary may deny the request for disintermentPetition for
 329 Order for Authorization for Disinterment and/or Reinterment based solely on any
 330 objectionsan objection to the disinterment either filed or presented by an individual with
 331 the same or a higher priority than the requester.

332 ~~(3) The Tribe's judicial system may, for good cause, extend the time for an order~~
 333 ~~to be issued for an additional ten (10) days.~~

334 ~~(4) The Tribe's judicial system may issue an additional order(s) to assist the~~
 335 ~~requester in obtaining his or her objective for disinterment, including testing,~~
 336 ~~inspection and/or transportation of the remains.~~

337 (d) Appeals. An appeal of an orderOrder issued under this section shall be filed with the
 338 Tribe's judicial systemJudiciary within five (5) business days after the order is issued.
 339 ~~All appeals shall be heard in accordance with the Tribe's Rules of Appellate Procedure.~~

- 340 ~~(e) Time lines for Disinterment.~~
- 341 ~~(1) The Judiciary may modify the appeal time frame if it is determined exigent~~
- 342 ~~circumstances exist requiring more immediate disinterment. If no appeal of an order~~
- 343 ~~issued under this section is filed, disinterment shall take place within sixty (60) days after~~
- 344 ~~the deadline for filing an appeal has passed. If an appeal is filed, a stay of the~~
- 345 ~~disinterment may be ordered, but only after inquiry into the facts and a finding that based~~
- 346 ~~on the facts it is reasonable to stay disinterment pending appeal.~~
- 347 ~~(2) If an appeal is filed, disinterment shall take place within sixty (60) days after~~
- 348 ~~the final judgment has been issued.~~
- 349 ~~(f) Following disinterment, the remains of the deceased person shall be reinterred or~~
- 350 ~~cremated within forty eight (48) hours of disinterment.~~
- 351 ~~(g) The Enrollment Department shall be present at each disinterment and re-interment~~
- 352 ~~that occurs in the Tribal cemetery and shall have the authority to restrict who may be~~
- 353 ~~present during a disinterment or re-interment.~~
- 354 ~~(h) The requester~~ 127.7-3. Land Management's issuance of a disinterment permit. Land
- 355 Management shall issue a Permit for Disinterment when all of the following occur:
- 356 (a) The person in charge of the disinterment submits a complete Application for
- 357 Disinterment Permit to Land Management.
- 358 (b) The person in charge of the disinterment submits a complete Land Management
- 359 Consent Form, signed by any of the following persons, in the order of priority stated
- 360 below, when persons in prior classes are not available at the time of application, and in
- 361 the absence of actual notice of contrary indications by the decedent or actual notice of
- 362 opposition by a member of the same or a prior class:
- 363 (1) An individual, as designated in writing by the decedent as listed in the
- 364 Authorization for Final Disposition;
- 365 (2) The decedent's spouse;
- 366 (3) An adult son or daughter of the decedent;
- 367 (4) Either parent of the decedent;
- 368 (5) An adult brother or sister of the decedent;
- 369 (6) A guardian of the person of the decedent at the time of the decedent's death;
- 370 (7) Any other person authorized, under obligation, or agreeing to dispose of the
- 371 decedent's corpse.
- 372 (c) Land Management shall deny the request for a Disinterment Permit when an
- 373 objection to the disinterment is either filed or presented by an individual with the same or
- 374 a higher priority than the requester. In such cases, Land Management shall refer the
- 375 requester to the Judiciary.
- 376 127.7-4. Reinterment by Land Management. Land Management may reinter or disinter human
- 377 remains that are interred in an Oneida cemetery in another plot in the same cemetery under the
- 378 following circumstances:
- 379 (a) Reinterment is necessary to correct a recordkeeping error made by the Nation or its
- 380 designee when the human remains were first buried; and
- 381 (b) Notification concerning the need for reinterment is made to one of the following, in
- 382 descending order, by registered mail:
- 383 (1) The decedent's spouse;
- 384 (2) An adult son or daughter of the decedent;
- 385 (3) Either parent of the decedent; or
- 386 (4) An adult brother or sister of the decedent.

Redline to Current for OBC Consideration

2017 07 26

387 (c) Land Management shall maintain a record of its attempt to provide notification under
 388 this section as part of Land Management's permanent records.

389 127.7-5. The Nation shall be responsible for making all arrangements and incurring all costs
 390 associated with disinterment and ~~re-interment~~reinterment due to a recordkeeping error on the
 391 Nation's behalf.

392

393 **127.78. Prohibited Items and Behavior on Cemetery Grounds**

394 127.78-1. ~~The Enrollment Department~~Land Management shall ~~establish cemetery~~promulgate
 395 rules concerning the maintenance and appearance of Oneida Nation cemetery grounds which
 396 shall be publically posted, including on TribalOneida Nation cemetery grounds. ~~The Enrollment~~
 397 DepartmentLand Management shall notify the Oneida—Trust/Enrollment
 398 CommitteeEnvironmental Resource Board of the current rules and any changes to anysuch rules.

399 127.7-2. ~~The Enrollment Department,~~(a) Land Management or its designee, may remove
 400 and dispose of any non-conforming objects from plots, ~~prohibit individuals who violate~~
 401 this Law and/or the cemetery grounds.

402 127.8-2. In accordance with applicable Oneida law, the Environmental Resource Board shall
 403 promulgate rules from accessing a Tribalconcerning prohibited uses of Oneida Nation cemetery
 404 and/or contact the grounds.

405 (a) The Oneida Police Department for assistance with individuals who violate this Law or the
 406 cemetery rules.

407 (a) ~~The Oneida Police~~or Oneida Conservation Department may issue citations for
 408 violation of this Lawlaw or the cemetery rules in accordance with the Public Use of
 409 Tribal Lands Schedule of Citations adopted by the Oneida Business Committeeapplicable
 410 Oneida law.

411 (b) Criminal or any other unlawful activity ~~conducted~~occurring at a Tribalan Oneida
 412 Nation cemetery shall be handled in accordance with applicable law.

413

414 **127.7-3. Appeals. Enrollment Department decisions9. Complaint Process**

415 127.9-1. Any individual may file a complaint with Land Management regarding the
 416 implementation and enforcement of this Lawandlaw.

417 127.9-2. Within five (5) business days of the receipt of a complaint, Land Management shall
 418 respond in writing indicating any action taken or planned action to remedy the complaint to the
 419 individual that filed the ~~creation and enforcement of any cemetery rules may be appealed to~~
 420 complaint, if the ~~Trust/Enrollment Committee~~address is known, to the Oneida Land
 421 Commission, and to the Environmental Resource Board.

422

423 *End.*

424

425 BC-09-02-88-A (Adoption of the Burial Ordinance)

426 BC-05-19-89-E (Adoption of Burial Ordinance)

427 BC-02-23-05-F (Emergency Adoption of Amendments)

428 BC-06-29-05-A (Permanent Adoption of Emergency Amendments)

429 BC-1-14-09-E (Adoption of Cemetery Law)

430 BC-10-09-13-B (Adoption of Emergency Amendments)

431 BC-03-26-14-C (Extension of Emergency Amendments)

432 BC-07-23-14-B (Adoption of Amendments)

FINANCE ADMINISTRATION
Fiscal Impact Statement



MEMORANDUM

DATE: March 27, 2017
 FROM: Rae Skenandore, Project Manager
 TO: Larry Barton, Chief Financial Officer
 Ralinda Ninham-Lamberies, Assistant Chief Financial Officer
 RE: **Fiscal Impact of Amendments – Cemetery Law**

I. Estimated Fiscal Impact Summary

Law: Cemetery Law		Draft 7
Implementing Agency	Division of Land Management Environmental Resource Board	
Estimated time to comply	6 (six) months	
Estimated Impact	Current Fiscal Year	10 Year Estimate
Start up	\$0	
Personnel	\$0	
Office	\$0	
Documentation Costs	\$0	
Total Estimated Fiscal Impact	\$0	\$0
Revenue and cost considerations	None	
Uncertainties and Unknowns	None	

II. Background

A. Legislative History

This Law was adopted by the Oneida Business Committee by resolution BC-5-19-89-E and amended by resolutions BC-6-29-05-A, BC-1-14-09-E and, BC-07-23-14-B.

B. Summary of Content

1. Designate the Division of Land Management (DOLM) with administrative & maintenance oversight.
2. Designate the Community Public Health Officer with authority over situations involving decedents who have died of communicable diseases.
3. Grant rulemaking authority to the Division of Land Management, the Environmental Resource Board and the Community Public Health Officer.
4. Update the complaint process regarding the implementation and enforcement of this law.

C. Methodology and Assumptions

1. A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the law after implementation.
2. Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.
3. The analysis was completed based on the information provided as of the date of this memo.

II. Agency

This Law transfers the authority and the responsibility for the Cemetery from Enrollments to Land Management. According to the Division of Land Management (DOLM), additional duties will be absorbed by existing employees. The outside contract for maintenance of the grounds will transfer from Enrollments to DOLM. Therefore, there is no fiscal impact.

Rulemaking and additional processes & forms will need development. DOLM is requesting a minimum of 6 (six) months prior to implementation compliance.

III. Financial Impact

No impact.

IV. Recommendation

Finance does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

3. Supporting Materials

Report Resolution Contract

Other:

1. 3.

2. 4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jennifer Falck, LRO Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2nd Floor Norbert Hill Center

June 21, 2017

9:00 a.m.

Present: Brandon Stevens, Fawn Billie, David P. Jordan

Excused: Tehassi Hill and Jennifer Webster

Others Present: Candice Skenandore, Maureen Perkins, Clorissa Santiago, Tani Thurner, JoAnne House, Krystal John, Robert J. Collins II, Bonnie Pigman, Mike Debraska, Dakota Oskey, Ed Delgado

I. Call to Order and Approval of the Agenda

Brandon Stevens called the June 21, 2017 Legislative Operating Committee meeting to order at 9:04 a.m.

Motion by Fawn Billie to adopt the agenda with the addition of the Legislative Reference Office SOP, seconded by David P. Jordan. Motion carried unanimously.

II. Minutes to be approved

1. June 7, 2017 LOC Meeting Minutes

Motion by David P. Jordan to approve the June 7, 2017 LOC meeting minutes; seconded by Fawn Billie. Motion carried unanimously.

III. Current Business

1. Domestic Animals (Tribal Regulation of) Amendments (01:20-02:51)

Motion by Fawn Billie to accept the public meeting comments and forward the Domestic Animals Amendments adoption packet to the Oneida Business Committee for consideration; seconded by David P. Jordan. Motion carried unanimously.

2. Vehicle Driver Certification and Fleet Management (02:55-3:51)

Motion by David P. Jordan to accept the public meeting comments and forward the Vehicle Driver Certification and Fleet Management adoption packet to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

3. Professional Conduct for Attorneys and Advocates (3:54-5:20)

Motion by David P. Jordan to approve the public meeting packet and forward the Professional Conduct for Attorneys and Advocates law to a public meeting to be held on Thursday, July 20, 2017; seconded by Fawn Billie. Motion carried unanimously.

4. Legal Resource Center (5:27-12:33)

Motion by Fawn Billie to approve the public meeting packet and forward the Legal Resource Center law to a public meeting to be held on Thursday, July 20, 2017; seconded by David P. Jordan. Motion carried unanimously.

5. **Landlord-Tenant Amendments** (12:34-16:15)

Motion by David P. Jordan to accept the public meeting comments and memorandum and forward the Landlord-Tenant amendments adoption packet to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

6. **Conflict of Interest Amendments** (16:34-33:52)

Motion by Fawn Billie to accept the public meeting comments and forward the Conflict of Interest amendments adoption packet to the Oneida Business Committee for consideration; seconded by David P. Jordan. Motion carried unanimously.

7. **Audit Law Amendments** (33:55-40:07)

Motion by David P. Jordan to direct the Legislative Reference Office to schedule a work meeting with Internal Audit, Law Office, HRD, and Finance; seconded by Fawn Billie. Motion carried unanimously.

8. **Business Committee Meetings Law** (40:10-56:46)

Motion by Fawn Billie to accept the public meeting comment response memorandum and updated draft and direct the Legislative Reference Office to update the legislative analysis and prepare an adoption packet; seconded by David P. Jordan. Motion carried unanimously.

9. **Workplace Violence** (56:53-57:30)

Motion by David P. Jordan to accept the public meeting comment response memorandum and draft and forward the Workplace Violence law adoption packet to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

IV. New Submissions

V. Additions

1. **Legislative Reference Office Public Meeting SOP** (57:38-58:29)

Motion by David P. Jordan to defer the revised LRO Public Meeting SOP to a work meeting with the Legislative Reference Office; seconded by Fawn Billie. Motion carried unanimously.

VI. Administrative Updates

1. **Second Extension of the Effective Date of the Community Support Fund Law** (58:34-1:04:17)

Motion by David P. Jordan to accept the Resolution: Second Extension of the Effective Date of the Community Support Fund Law and forward to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

2. **Petition: Delgado Trust Land Distribution** (01:04:23-01:05:29)

Motion by David P. Jordan to Add Petition: Delgado Trust Land Distribution to the active files list with Brandon Stevens sponsor and accept the statement of effect

regarding Petition: Delgado- Trust Land Distribution and forward to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

3. **Health Board Memorandum** (01:05:33-01:06:42)

Motion by David P. Jordan to approve the Health Board Memorandum and forward to the Oneida Business Committee; seconded by Fawn Billie. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by David P. Jordan to adjourn the June 21, 2017 Legislative Operating Committee meeting at 10:11 a.m.; seconded by Fawn Billie. Motion carried unanimously.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor: Denise Vigue, Executive Assistant /Finance Administration
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Oneida Business Committee approval is required to approve all Finance Committee meeting actions as the FC is a standing committee of the OBC.

1) Save a copy of this form for your records.

2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

ONEIDA NATION

P.O. Box 365



Oneida, WI 54115

MEMORANDUM

TO: Finance Committee
CC: Business Committee
FR: Denise Vigue, Executive Assistant
DT: July 18, 2017
RE: **E-Poll Results of: FC Meeting Minutes of JULY 17, 2017**

An E-Poll vote of the Finance Committee was conducted to approve the July 17, 2017 Finance Committee meeting minutes. The results of the completed E-Poll are as follows:

E-POLL RESULTS:

There was a Majority 4 YES votes from Patrick Stensloff, Chad Fuss, Wesley Martin, Jr. and Larry Barton to approve the July 17, 2017 Finance Committee Meeting Minutes.

The minutes will be placed on the next BC agenda of July 26, 2017 for approval and the next Finance Committee agenda of July 31, 2017 to ratify this E-Poll action.

Yaw^ko

* Per the Finance Committee By-Laws Article III-Meetings, 3-4 Quorum. Four (4) members of the Finance Committee shall constitute a quorum & 3-6 Voting. (d) The Finance Committee shall act by a majority of vote of the quorum present at any meeting.



ONEIDA FINANCE COMMITTEE

FC WORK MEETING

Jul. 17, 2017 – 9:00 A.M.
BC Executive Conference Room

REGULAR MEETING

Jul. 17, 2017 – 10:00 A.M.
BC Executive Conference Room

REGULAR MEETING MINUTES

FC Work Meeting:

Patricia King, Treasurer/FC Chair
Jennifer Webster, BC Council Member
Patrick Stensloff, Purchasing Director

Larry Barton, CFO/FC Vice-Chair
Chad Fuss, Gaming AGM/FC Alternate
Wesley Martin, Jr., Community Elder Member

Excused: David Jordan, BC Council Member

Others Present: Joanie Buckley, Frank Vandehei and Denise Vigue, taking notes

FC Regular Meeting:

Patricia King, Treasurer/FC Chair
Chad Fuss, Gaming AGM/FC Alternate
Wesley Martin, Jr., Community Elder Member

Larry Barton, CFO/FC Vice-Chair
Patrick Stensloff, Purchasing Director

Excused: Jennifer Webster, BC Council Member and David Jordan, BC Council Member

Others Present: Joanie Buckley, Mari Kriescher, Ted Skenandore, Matt Denny, Frank Vandehei and Denise Vigue, taking minutes

I. Call to Order: The FC regular meeting was called to order by the FC Chair at 10:00 A.M.

II. Approval of Agenda: JULY 17, 2017:

Motion by Chad Fuss to approve the Finance Committee agenda for July 17, 2017. Seconded by Larry Barton. Motion carried unanimously.

III. Approval of Minutes: JUNE 29, 2017 (approved via FC E-Poll on 7/5/17):

Motion by Chad Fuss to ratify the FC E-Poll action of July 5, 2017 approving the Finance Committee meeting minutes of June 29, 2017. Seconded by Patrick Stensloff. Motion carried unanimously.

IV. Tabled Business:

- Research: Green Bay Packer Merchandise
Denise Vigue, Finance

Motion by Chad Fuss to remove the item from the table for discussion. Seconded by Larry Barton. Motion carried unanimously.

The research entailed a historical perspective of this item that has been discussed at GTC since 2015; from the minutes it is understood that the GTC did approve the Audit Presentation on 4/23/17; all recommendations in the Audit Presentation are for Management and or the Business Committee to follow up on for actions regarding the recommendations.

Motion by Larry Barton to accept the research report as FYI. Seconded by Wesley Martin, Jr. Motion carried unanimously.

- Oneida Community Farm Projects
Requestor: Frank Vandehei

Motion by Larry Barton to remove the item from the table for discussion. Seconded by Patrick Stensloff. Motion carried unanimously.

This item was discussed extensively in the FC work meeting just prior to this meeting including a full presentation by Joanie Buckley on behalf of Tsyunhehkwa & a discussion with Frank Vandehei: It is understood that what is being proposed in this request and for Donation Request #2 are agricultural activities that do not duplicate what the Nation currently offers but does compliment those activities by working with tribal members at their own homes throughout the community. A discussion of previous projects that already received donations and how all operations can be funneled through one department within the Nation were mentioned: there needs to be basic expectations aside from a EIN number for these types of requests; it was suggested that all requestors understand that a complete follow up summary of activities has to be provide after the growing season, that these types of requests are a one-time "start-up" donation, and that any donation funds are to be used for equipment/supplies only (receipts with summary required).

Motion by Larry Barton to approve the Oneida Community Farm Projects in the amount of \$2,500. with the following guidelines: Requestor is to bring back in the fall a summary of the activities the project provided this growing season and list of participants; requestor is to use funds for equipment/supply purchases only; and it is understood this donation is a one-time request. Seconded by Chad Fuss. Motion carried unanimously.

V. Capital Expenditures:

1. OGC-Surveillance Transfer to Technology Set-Aside for SSRP
Mark Powless, OGC Chair

Matt Denny was present to discuss this request to transfer capital expenditure funds from OGC-Surveillance to the replacement project (SSRP); proposed expenses for several items are no longer needed and or already purchased; the SSRP costs more than anticipated and project has started with the casino outlets.

Motion by Wesley Martin, Jr. to approve the OGC Surveillance Capital Expenditure Budget transfer to the Technology set-aside for the Surveillance System Replacement Project in the amount of \$134,630., with the understanding these items will not be requested in the FY18 budget. Seconded by Larry Barton Motion carried unanimously.

VI. Donations:

1. FC Monthly Donation Line Update
Denise Vigue, Finance

There were four Donation requests approved in the third quarter with one more that is pending today's decision. The balance of funds after three quarters is \$17,825.38, not counting any actions taken today.

Motion by Chad Fuss to accept the Finance Committee Monthly Donation Line update as FYI. Seconded by Wesley Martin, Jr. Motion carried unanimously.

2. Yukwanuhkwat Kahkwa?
Requestor: Ted Skenandore

Ted Skenandore provide a verbal presentation to the slides already submitted in the FC packets; he is growing on his own property sprouts and microgreens and working to get these and the other plant based items he grown into the school system; mainly day care, tribal school; harder to get to nursing home because of the strict federal guidelines; intends on teaching others how to grow food for healthier diets; has extensive background and understands the growing, harvesting, packaging and sales of products; his request was also discussed in the previous work session.

Motion by Wesley Martin, Jr. to approve the Yukwanuhkwat Kahkwa? Project in the amount of \$2,500. with the following guidelines: Requestor is to bring back in the fall a summary of the

activities the project provided this growing season and list of participants; requestor is to use funds for equipment/supply purchases only; and it is understood this donation is a one-time request. Seconded by Chad Fuss. Motion carried unanimously.

VII. New Business:

1. Meadowbrook Insurance-Property Premium
Robert Keck, Risk Management

Robert Keck was present to explain this request for a premium insurance payment for the Nations' properties; contract payment is July 1st to July 1st each year; original contract had an RFP and legal review; same carrier for six years; plan to send out RFP next year to price the market.

Motion by Wesley Martin, Jr. to approve the Property Insurance Premium payment to Meadowbrook in the amount of \$423,055. Seconded by Chad Fuss. Larry Barton abstained. Motion carried.

2. FC Third Quarter Report to the BC
Larry Barton, CFO

Motion by Larry Barton to approve the FC Third Quarter Report and send to the next BC Report Agenda. Seconded by Wesley Martin, Jr. Motion carried unanimously.

VIII. Executive Session: No Requests

IX. Follow Up: None

X. FYI and /or Thank You: No items

XI. Adjourn: Motion by Wesley Martin, Jr. to adjourn. Seconded by Chad Fuss. Motion carried unanimously. The regular Finance Committee meeting ended at 11:08 A.M.

Minutes taken & transcribed by:
Denise Vigue, Executive Assistant to the CFO
& Finance Committee Contact/Recording Secretary

Finance Committee-E-Poll Minutes Approval Date: July 18, 2017

Oneida Business Committee's FC Minutes Approval Date: _____

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

[Empty text box]

Agenda Header: Standing Committees

Accept as Information only

Action - please describe:

BC approval of Finance Committee E-Poll approving the sole source Prevea Clinics, Inc. agreement #2017-0808 with Behavioral Health.

3. Supporting Materials

Report Resolution Contract

Other:

1. FC E-Poll approving the Prevea Agreement 3. [Empty text box]
2. [Empty text box] 4. [Empty text box]

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison: Trish King, Tribal Treasurer

Primary Requestor: Denise Vigue, Executive Assistant /Finance Administration
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Oneida Business Committee approval is required to approve all Finance Committee meeting actions as the FC is a standing committee of the OBC. See E-Poll notice below:

FC Special E-POLL: Prevea Clinics, Inc Agreement-

This was for a late ADD On that was not reviewed in time for the 7/17/17 FC Meeting. Before the 7/17/17 FC meeting began the members decided to send this out as a Special E-Poll to give members time to read the request & vote on it due to the agreement start date. (This is a sole source request)

Amount being requested by Mari Kriescher, OCHC-Behavioral Health is \$109,200.00

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

ONEIDA NATION**Finance Administration**

P.O. Box 365 • Oneida, WI 54155

Phone: 920- 869-4325

FAO@oneidanation.org**MEMORANDUM**

To: Oneida Finance Committee
Fr: Denise Vigue, Executive Assistant-Finance
Dt: July 18, 2017
Re: **FC Special E-Poll Results – Prevea Clinics, Inc.**

This was for a late ADD On that was not reviewed in time for the 7/17/17 FC Meeting. Before the 7/17/17 FC meeting began the members decided to send this out as a Special E-Poll to give members time to read the request & vote on it due to the agreement start date. Amount being requested by Mari Kriescher, OCHC-Behavioral Health is \$109,200.00

E-POLL RESULTS:

There was a Majority - 5 YES votes from Chad Fuss, Larry Barton, Patrick Stensloff, David Jordan and Jennifer Webster to approve request from Behavioral Health/OCH for the Prevea Clinics, Inc. contract #2017-0808 in the amount of \$109,200.00.

This concludes the Finance Committee Special E-poll. The information will be forwarded to the Business Committee agenda of July 26, 2017 agenda along with the FC meeting minutes of July 17, 2017. This item will also be place on the FC agenda of July 31, 2017 to ratify this Special E-Poll. Thank You.

Finance Committee By-Laws excerpt:

Article III. Meetings

3-6. Voting

(c) Telephone and e-mail polls may be allowed by authority of the (Finance Committee) Chairperson. Polls must be sent to all Finance Committee members with a quorum responding.

CONTRACT / PURCHASE APPROVAL REQUEST

Contacts

Date	6/26/2017	Requested Review Date	7/17/2017
Requestor's Name	Jamie Willis	Requestor's Phone #	869-4861
Business Unit Name	Consolidated Hlth	Area Director	Mari Kriescher
Business Unit Number		Executive Representative	Dr. Vir/ Debra Danforth

Description of Contract (Include a summary of the contract as well as benefits associated from the contract)

Review and approval of Service Agreement of Independent Contractors for Prevea Behavioral Health. This will improve access within Oneida Behavioral Health Services.

Terms of the Contract

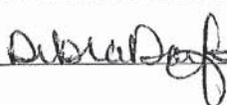
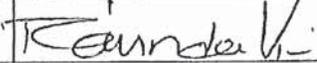
Supplier Name	Prevea Clinics, Inc.	Vendor Number	102961
Item(s) Purchased	Psychiatry Services	Budgeted Purchase	YES
Total Commitment	109,200.00	Trade-in / Book Value	
Shipping Costs		Legal Review Number	2017-0808
Contract Start Date		Contract End Date	
Auto-renewal clause	YES	If Yes, Notice Period	60
CAP EX Approval		State License Current (Gaming Specific)	
CAP EX Line Item		Account Number	001-5235703-700-702125-000

Competitive Bid/Sole Source Justification (Include a summary of the selection criteria if other than price)

	Supplier Name	Bid Amount	Indian Preference	Sole Source
Bidder #1	Prevea Clinics, Inc.			X
Bidder #2				
Bidder #3				

Summary of selection criteria or sole source justification: The Comprehensive Health Division already has several service agreements with Prevea and they are willing to help with patient access within Behavioral Health.

Approval / Review Dates	
Legal Review	7/12/17
Purchasing Review	7/12/17
Gaming Commission Review	
Finance Committee Approval	
Cap-Ex Committee Approval	
HRD Review	
Risk Management Review	

Acknowledgement	
CH Operations Director	CH Medical Director
	

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor: Denise Vigue, Executive Assistant /Finance Administration
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Oneida Business Committee approval is required to approve all Finance Committee meeting actions as the FC is a standing committee of the OBC. See E-Poll notice below:

FC Special E-POLL: Capital Expenditure fund transfer to CIP:

The transfer of \$300,000.00 from Capital Expenditure funds from Elder Services to CIP project 05-013 -Elder Services/Apartment Improvements &

The transfer of \$21,000.00 asphalt replacement 3 Sisters to CIP project 14-013 -Early Head Start Facility

1) Save a copy of this form for your records.

2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

ONEIDA NATION**Finance Administration**

P.O. Box 365 • Oneida, WI 54155

Phone: 920- 869-4325

FAO@oneidanation.org**MEMORANDUM**

To: Oneida Finance Committee
Fr: Denise Vigue, Executive Assistant-Finance
Dt: July 19, 2017
Re: **FC Special E-Poll Results – Capital Expenditure Funds Transfer to CIP**

This Special E-Poll was approved by the Treasure on 7/18/17. Request is for:

The transfer of \$300,000.00 from Capital Expenditure funds from Elder Services to CIP project 05-013 -Elder Services/Apartment Improvements and the transfer of \$21,000.00 asphalt replacement 3 Sisters to CIP project 14-013 -Early Head Start Facility

E-POLL RESULTS:

There was a Majority - 5 YES votes from Larry Barton, David Jordan, Jennifer Webster, Chad Fuss and Patrick Stensloff to approve the request to transfer CapEx Funds to CIP as stated above.*

This concludes the Finance Committee Special E-poll. The information will be forwarded to the Business Committee agenda of July 26, 2017 agenda. This item will also be place on the FC agenda of July 31, 2017 to ratify this Special E-Poll.

Thank You.

*** The FC Elder member did not vote but asked to include his concern before any transfer of funds:**

"All, Our these funds for Elder Apartment for the garages. The Elders residents have been waiting for over 6 years for these apartment. Please let me know about my concerns before these funds or approved. Thanks,
Wes Martin -Elder FC Member"

Finance Committee By-Laws excerpt:

Article III. Meetings

3-6. Voting

(c) Telephone and e-mail polls may be allowed by authority of the (Finance Committee) Chairperson. Polls must be sent to all Finance Committee members with a quorum responding.

Denise J. Vigue

From: Denise J. Vigue
Sent: Tuesday, July 18, 2017 3:52 PM
To: Chad M. Fuss; David P. Jordan; Jennifer A. Webster; Lawrence E. Barton; Louise C. Cornelius; Patricia M. King; Patrick W. Stensloff; Wesley Martin
Cc: Brian A. Doxtator
Subject: FC Special E-POLL_CAPEX Fund Transfer to CIP

Per approval from the Treasurer the following E-poll is being requested of the Finance Committee.

FC Special E-POLL: Capital Expenditure fund transfer to CIP:

The transfer of \$300,000.00 from Capital Expenditure funds from Elder Services to CIP project 05-013 -Elder Services/Apartment Improvements &

The transfer of \$21,000.00 asphalt replacement 3 Sisters to CIP project 14-013 -Early Head Start Facility

Please send you response to this E-Poll asap so we can add this to the 8/26/17 BC agenda.

Thank you,

Denise Vigue

Executive Assistant to the CFO
Finance Administration Office
& Finance Committee Contact
office 920.869.4325
fax 920.869.4393



A good mind. A good heart. A strong fire.

P.O. Box 365
Oneida, WI 54155
FAO@oneidanation.org

Denise J. Vigue

From: Brian A. Doxtator
Sent: Tuesday, July 18, 2017 2:45 PM
To: Denise J. Vigue
Subject: FW: CIP Project Numbers - Budget

A e-poll request of the Finance committee is to transfer these monies into the C.I.P. projects.

From: Jacque Boyle
Sent: Tuesday, July 18, 2017 2:26 PM
To: Brian A. Doxtator
Cc: Paul J. Witek
Subject: FW: CIP Project Numbers - Budget

Hi Brian, Below are the details for transferring the \$300,000 Elder Services capex funds to CIP project 05-013 and \$21,000 asphalt replacement 3 Sisters to CIP project 14-013

If this is allowed, I will remove these requests from our FY18 capex budget requests.

From: Paul J. Witek
Sent: Wednesday, July 05, 2017 11:11 AM
To: Jacque Boyle
Subject: CIP Project Numbers - Budget

Jacque,

Here is the information you requested regarding the possibility of transferring Cap-Ex funds to CIP.

Elder Services / Apartment Improvements

CIP #: 05-013

G/L #: not established (We have not activated the FY2015 CIP Budget Allocation of \$48,000, so no account number has been established)

Early Head Start Facility

CIP #: 14-013

G/L #: 001-1101500-413

Paul J. Witek, AIA, LEED-AP

Engineering Department

Senior Tribal Architect



A good mind. A good heart. A strong fire.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Motion to accept the May 11, 2017 Quality of Life (QOL) minutes

3. Supporting Materials

Report Resolution Contract

Other:

1. 3.

2. 4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Cathy Bachhuber, Executive Assistant
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Quality of Life Committee Meeting Minutes for May 11, 2017

Present: Trish King, Treasurer; Tehassi Hill and Brandon Stevens, Councilmembers
Others present: Latsiklanunha Hill, Mandy Schneider, Priscilla Belisle, Dr. Ravinder Vir, George Skenandore, Cathy Bachhuber

I. Call to Order and Roll Call

Meeting called to order by Tehassi Hill at 8:42 a.m.

II. Approval of the agenda

Motion by Trish King to approve the agenda, seconded by Brandon Stevens. Motion carried unanimously.

III. Approval of Meeting Minutes

A. April 20, 2017 Quality of Life meeting minutes

Motion by Brandon Stevens to approve the April 20, 2017 Quality of Life meeting minutes, seconded by Trish King. Motion carried unanimously.

IV. Unfinished Business

A. Case Management Strategy – Fawn Billie

Excerpt from April 20, 2017 Quality of Life Meeting: Motion by Trish King to defer to next month's QOL meeting and invite the GSD Director, seconded by Brandon Stevens. Motion carried unanimously.

Motion by Tehassi Hill to add the Community Health Assessment (CHA) to the May Quality of Life agenda, seconded by Brandon Stevens. Motion carried unanimously.

Note: Agenda item will be renamed "Case Management Strategy"

Excerpt from March 9, 2017 Quality of Life Meeting: Motion by Tehassi Hill to direct the Governmental Services Division Director to provide an update on the services provided and services needed for intake, disability, and/or handicap for the April Quality of Life meeting, seconded by Brandon Stevens. Motion carried unanimously.

Excerpt from January 12, 2017 Quality of Life Meeting: Motion by Tehassi Hill to have the QOL Chair request an update from the Governmental Services Director and the Organization Development Specialist for the next QOL meeting, seconded by Trish King. Motion carried unanimously.

Excerpt from December 8, 2016 Quality of Life Meeting: Motion by Tehassi Hill to have the QOL Chair send a memo [for the next BC work meeting; to the OBC and Tracey Cordova with an update from the QOL. Motion carried unanimously.

Excerpt from June 9, 2016 Quality of Life Meeting: Motion by Tehassi Hill to accept the verbal report and come back in 30 days for approval of a universal form, seconded by Brandon Stevens. Motion carried unanimously.

Excerpt from May 12, 2016 Quality of Life Meeting: Motion by Tehassi Hill to have the QOL Chair meet with the Law office to draft an universal request form to provide to Social Services for case management and to bring back within 30 days, seconded by Brandon Stevens. Motion carried unanimously.



Motion by Tehassi Hill to request GSD to formulate a referral consent form for the BC and send to the QOL Chair to be placed on the next BC agenda for adoption, seconded by Brandon Stevens. Motion carried unanimously.

Excerpt from April 14, 2016 Quality of Life Meeting: *Motion by Tehassi Hill to accept the Vice Chair's recommendation and invite Mallory Patten to the next QOL meeting, seconded by Brandon Stevens. Motion carried unanimously.*

Motion by Trish King for the Governmental Services Division Director and the Comprehensive Health Medical Division Director to work together to identify a team to improve 1) the coordination of care services we already provide 2) customer service and 3) case management, and to bring back to QOL for monthly updates, seconded by Brandon Stevens. Motion carried unanimously.

B. Tribal Action Plan – Mandy Schneider

Excerpt from April 20, 2017 Quality of Life Meeting: *Motion by Trish King to support the TAP Resolution moving forward for BC adoption, seconded by Brandon Stevens. Motion carried unanimously.*

Excerpt from March 9, 2017 Quality of Life Meeting: *Motion by Tehassi Hill to have the Tribal Action Plan (TAP) team bring back a status and needs report to the April 13th Quality of Life meeting, seconded by Brandon Stevens. Motion carried unanimously.*

Motion by Brandon Stevens to accept the verbal update as an FYI, seconded by Trish King. Motion carried unanimously.

V. New Business

A. Creating a Drug – Free Oneida Community

i. Drug Identification & Recognition to Support Tribal Justice Training – Fawn Billie, Brandon Stevens

Motion by Trish King to accept the update and refer this item to QOL Chair Fawn Billie for setting up a mandatory training for employees through HRD, seconded by Brandon Stevens. Motion carried unanimously.

ii. Documentary “Unguarded” and Speaker Chris Herren – Fawn Billie

Motion by Brandon Stevens to accept as FYI, seconded by Trish King. Motion carried unanimously.

VI. Reports

VII. Additions

VIII. Adjourn

Motion by Brandon Stevens to adjourn at 11:01 a.m., seconded by Trish King. Motion carried unanimously.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

BC to approve the recommendation to appoint Jeanette Archiquette-Ninham to serve as the 1 Community Member elder 55 on the Pardon and Forgiveness Screening Committee, and to repost the other 3 vacancies.

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Submitted by Lora Skenandore, Assistant to Chairwoman Cristina Danforth
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

See memo which has all the required information.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf OR print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org



Oneida Nation
Oneida Business Committee
PO Box 365 • Oneida, WI 54155-0365
oneida-nsn.gov



TO: ONEIDA BUSINESS COMMITTEE

FROM: CHAIRWOMAN CRISTINA DANFORTH *CSH*

DATE: JULY 17, 2017

RE: PARDON AND FORGIVENESS SCREENING COMMITTEE

There were 4 vacancies; 1 Community Member and 1 alternate, and 1 Community Member elder 55 and over and 1 alternate on the Pardon and Forgiveness Screening Committee. There is 1 applicant who is Jeanette Archiquette-Ninham.

The candidate is qualified to serve. In accordance with Article VI, Section 6-2 (c) of the Comprehensive Policy Governing Boards, Committees and Commissions, I recommend Jeanette Archiquette-Ninham to be appointed to serve as the 1 Community Member elder 55 on the Pardon and Forgiveness Screening Committee.

Please re-post for the other 3 vacancies.

Thank You.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="Letter from Jeff Bowman"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Leyne Orosco, Executive Assistant
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Applications were reviewed for Director position on the Ban Bancorporation Board and Jeff Bowman is recommending Elaine Skenandore-Cornelius to be appointed to this board.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org



"Community Banking the Way it Should Be"

June 28, 2017

Ms. Cristina Danforth
Chairwoman and Bay Bank Liaison
Oneida Nation
N7210 Seminary Rd
Oneida, WI 54155

David P. Jordan
Business Committee Member – Alternate Bay Bank Liaison
Oneida Nation
N7210 Seminary Rd
Oneida, WI 54155

Re: Recommendation for the Board position at Bay Bancorporation Inc

Dear Chairwoman Danforth and Councilman Jordan,

I have reviewed the applications for the position on the Bay Bancorporation Board of Directors.

I am recommending that the following person serve as a Director;

Elaine Skenandore-Cornelius

If this is acceptable, I would ask that Ms. Skenandore-Cornelius be sworn in at the next available BC meeting.

Please call me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Bowman".

Jeff Bowman
President & CEO

By-Laws of Bay Bancorporation, Inc.

Introduction - Variable References

0.01. Date of annual shareholders' meeting (See Section 2.01):
 4:00 P.M. 2nd Thursday April 1998¹
 (Hour) (Week) (Day) (Month) (First Year)
 *

0.02. Required notice of shareholders' meeting (See Section 2.04): not less than ten (10) days.
 *

0.03. Authorized number of directors (See Section 3.01): Nine (9)
 *

0.04. Required notice of directors' meetings (See Section 3.05 6):
 (a) Not less than 72 hours if by mail, and
 (b) Not less than 48 hours if by telegram or personal delivery.
 (c) Not less than 24 hours if by facsimile or email.²
 *

0.05. Authorized number of Vice-Presidents (See Section 4.01): One (1)
 *

* These spaces are reserved for official notation of future amendments to these Sections.

Article I. Offices

1.01. Principle and Business Offices. The corporation may have such principal and other business offices, either within or without the State of Wisconsin, as the Board of Directors may designate or as the business of the corporation may require from time to time.

1.02. Registered Office. The registered office of the corporation required by the Wisconsin Business Corporation Law to be maintained in the State of Wisconsin may be, but need not be, identical with the principal office in the State of Wisconsin, and the address of the registered office may be changed from time to time by the Board of Directors or by the registered agent. The business office of the registered agent of the corporation shall be identical to such registered office.

Article II. Shareholders

2.01. Annual Meetings. The annual meeting of the shareholders shall be held at the date and hour in each year set forth in Section 0.01, or at such other time as may be fixed by or under the authority of the Board of Directors, for the purpose of electing directors and for the transaction of such other

¹ Amended January 8, 1998.

² Amended July 21, 2006

business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Wisconsin, such meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the day designated herein, or fixed as herein provided, for any annual meeting of the shareholders, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the shareholders as soon thereafter as conveniently may be.

2.02. Special Meetings.³ Special meetings of the shareholders may be called by a majority of the shareholders, a majority of the shareholder's proper and elected representatives, or the Chairperson or president⁴ of the Board.

2.03. Place of Meeting. The Board of Directors may designate any place either within or without the State of Wisconsin, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors. A waiver of notice signed by all shareholders entitled to vote at a meeting may designate any place, either within or without the State of Wisconsin, as the place for holding such meeting, if no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal business office of the corporation in the State of Wisconsin or such other suitable place in the county of such principal office as may be designated by the person calling such meeting, but any meeting may be adjourned to reconvene at any place designated by vote of a majority of the shares represented thereat.

2.04. Notice of Meeting. Notice of the regular annual meeting and of special meetings shall be given by written or printed notice stating the time and place of the meetings, mailed to the last know post office address of each shareholder or the shareholder's proper and elected representatives, not less than the number of days set forth in section 0.02 (unless a longer period is required by law or the articles of incorporation) nor more than fifty days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail. In the notice of a special meeting, the business to be brought before the meeting shall be briefly stated, and no other business shall be voted upon at the meeting.⁵

2.05. Closing of Transfer Books or Fixing of Record Date. For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or shareholders entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the Board of Directors may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, fifty days. If the stock transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least ten days immediately preceding such meeting. In lieu of closing the stock transfer books, the Board of

³ Amended October 18, 2004

⁴ Amended July 21, 2006

⁵ Amended October 18, 2004.

Directors may fix in advance a date as the record date for any such determination of shareholders, such date in any case to be not more than fifty days and, in case of a meeting of shareholders not less than ten days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the close of business on the date on which notice of the meeting is mailed or on the date on which the resolution of the Board of Directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders is entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall be applied to any adjournment thereof except where the determination has been made through the closing of the stock transfer books and the state period of closing has expired.

2.06. Voting Records. The officer or agent having charge of the stock transfer books for shares of the corporation shall, before each meeting of shareholders, make a complete record of the shareholders entitled to vote at such meeting, or any adjournment thereof, with the address of and the number of shares held by each. Such record shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting for the purposes of the meeting. The original stock transfer books shall be prima facia evidence as to who are the shareholders entitled to examine such record or transfer books or to vote at any meeting of shareholders. Failure to comply with the requirements of this section shall not affect the validity of any action taken at such meeting.

2.07. Quorum. Except as otherwise provided in the articles of incorporation, a quorum of the shares entitled to vote, represented in person or by proxy, shall require $66 \frac{2}{3}\%$ ⁶ of the voting shares represented at the meeting and entitled to vote on the subject matter which vote shall constitute the act of the shareholders unless the vote of a greater number or voting by classes is required by law or the articles of incorporation. Though less than a quorum of outstanding shares are represented at a meeting, a majority of the shares so represented may adjourn the meeting from time to time subject to giving notice to the other shareholders of such adjourned date and time. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified.

2.08. Conduct of Meeting. The President, and in his/her absence, a Vice-President in the order provided under Section 4.06, and in their absence, any person chosen by shareholders present shall call the meeting of the shareholders to order and shall act as chairperson of the meeting, and the Secretary of the corporation shall act as secretary of all meetings of the shareholders, but, in the absence of the Secretary, the presiding officer may appoint any other person to act as secretary of the meeting.

2.09. Proxies. At all meetings of shareholders, a shareholder entitled to vote may vote in person or by proxy appointed in writing by the shareholder or by his duly authorized attorney in fact. Such proxy shall be filed with the Secretary of the corporation before or at the time of the meeting. Unless otherwise provided in the proxy, a proxy may be revoked at any time before it is voted, either by

⁶ Amended April 12, 1999.

written notice filed with the Secretary or the acting secretary of the meeting or by oral notice given by the shareholder to the presiding officer during the meeting. The presence of a shareholder who has filed his/her proxy shall not of itself constitute a revocation. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. The Board of Directors shall have the power and authority to make rules establishing presumptions as to the validity and sufficiency of proxies.

2.10. Voting of Shares. Each outstanding share shall be entitled to one vote upon each matter submitted to a vote at a meeting of shareholders, except to the extent that the voting rights of the shares of any class or classes are enlarged, limited or denied by the articles of incorporation.

2.11. Voting of Shares by Certain Shareholders.

(a) Other Corporations. Shares standing in the name of another corporation may be voted either in person or by proxy, by the president of such corporation or any other officer appointed by such president. A proxy executed by any principal officer of such other corporation or assistant thereto shall be conclusive evidence of the signer's authority to act, in the absence of express notice to this corporation, given in writing to the Secretary of this corporation, of the designation of some other person by the board of directors or the by-laws of such other corporation.

(b) Legal Representatives and Fiduciaries. Shares held by an administrator, executor, guardian, conservator, trustee, in bankruptcy, receiver, or assignee for creditors may be voted by him/her, either in person or by proxy, without a transfer of such shares into his/her name, provided that there is filed with the Secretary before or at the time of meeting proper evidence of his/her incumbency and the number of shares held. Shares standing in the name of a fiduciary may be voted by him/her, either in person or by proxy. A proxy executed by a fiduciary, shall be conclusive evidence of the signer's authority to act, in the absence of express notice to this corporation, given in writing to the Secretary of this corporation, that such manner of voting is expressly prohibited or otherwise directed by the document creating the fiduciary relationship.

(c) Pledges. A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

(d) Treasury Stock and Subsidiaries. Neither treasury shares, nor shares held by another corporation if a majority of the shares entitled to vote for the election of directors of such other corporation is held by this corporation, shall be voted at any meeting or counted in determining the total number of outstanding shares entitled to vote, but shares of its own issue held by this corporation in a fiduciary capacity, or held by such other corporation in a fiduciary capacity, may be voted and shall be counted in determining the total number of outstanding shares entitled to vote.

(e) Minors. Shares held by a minor may be voted by such minor in person or by proxy and no such vote shall be subject to disaffirmance or avoidance, unless prior to such vote the Secretary of the corporation has received written notice or has actual knowledge that such shareholder is a minor.

(f) Incompetents and Spendthrifts. Shares held by an incompetent or spendthrift may be voted by such incompetent or spendthrift in person or by proxy and no such vote shall be subject to disaffirmance or avoidance, unless prior to such vote the Secretary of the corporation has actual knowledge that such shareholder has been adjudicated an incompetent or spendthrift or actual knowledge of filing of judicial proceedings for appointment of a guardian.

(g) Joint Tenants. Shares registered in the names of two or more individuals who are named in the registration as joint tenants may be voted in person or by proxy signed by any one or more of such individuals if either (i) no other such individual or his/her legal representative is present and claims the right to participate in the voting of such shares or prior to the vote files with the Secretary of the corporation a contrary written voting authorization or direction or written denial of authority of the individual present or signing the proxy proposed to be voted or (ii) all such other individuals are deceased and the Secretary of the corporation has no actual knowledge that the survivor has been adjudicated not to be the successor to the interests of those deceased.

2.12. Waiver of Notice by Shareholders. Whenever any notice whatever is required to be given to any shareholder of the corporation under the articles of incorporation or by-laws or any provision of law, a waiver thereof in writing, signed at any time whether before or after the time of meeting, by the shareholder entitled to such notice, shall be deemed equivalent to the giving of such notice; provided that such waiver in respect to any matter of which notice is required under any provision of the Wisconsin Business Corporation Law, shall contain the same information as would have been required to be included in such notice, except the time and place of meeting.

2.13. Unanimous Consent Without Meeting. Any action required or permitted by the articles of incorporation or by-laws or any provision of law to be taken at a meeting of the shareholders, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof.

Article III. Board of Directors

3.01. General Power and Number. The business and affairs of the corporation shall be managed by its Board of Directors. The number of directors of the corporation shall be as provided in Section 0.03.

3.02. Election and Tenure. The directors shall be elected by the shareholders at the regular annual meeting of the shareholders, and a majority of the shares represented shall be necessary for election. Each director shall hold office for three (3) years and until his or her successor has been elected and qualified, or until his or her death, or until he or she shall resign, or until he or she has been removed in a manner hereinafter provided. The terms of the directors shall be staggered in a manner set by motion, and then consistent thereafter. Any vacancy occurring on the Board shall be filled by the shareholders for the unexpired term. A director may be removed from office by affirmative vote of a majority of the outstanding shares entitled to vote, or by the election of such director taken at a special meeting of the shareholders called for that purpose. A director may resign at any time by filing his or her written resignation with the chairperson of the Board.⁷

3.03. Qualifications. Individuals eligible for election to the Board of Directors shall meet minimum qualifications determined by properly offered and approved motion(s) of the stockholders. Qualifications for membership to the Board may include experience, education, prior service to the shareholder or its affiliates, or other qualifications which the shareholders deem appropriate and are within the parameters of applicable laws. Due to the regulated nature of the business and the state of incorporation, shareholders shall not be bound by the Oneida Tribe of Indians Policy on Boards,

⁷ Amended October 18, 2004.

Committees, and Commissions when electing eligible members to the Board. A director does not need to be a resident of the State of Wisconsin.⁸

3.04. Regular Meetings. A regular meeting of the Board of Directors shall be held without other notice than this by-law immediately after the annual meeting of the shareholders, and each adjourned session thereof. The place of such regular meeting shall be the same as the place of the meeting of shareholders which precedes it, or such other suitable place as may be announced at such meeting of shareholders. The Board of Directors may provide, by resolution, the time and place, either within or without the State of Wisconsin, for the holding of additional regular meetings without other notice than such resolution.

3.05. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President, Secretary or any four directors. The President or Secretary calling any special meeting of the Board of Directors may fix any place, either within or without the State of Wisconsin, as the place for holding any special meeting of the Board of Directors called by them, and if no other place is fixed the place of meeting shall be the principal business office of the corporation in the State of Wisconsin.

3.06. Notice; Waiver. Notice of each meeting of the Board of Directors (unless otherwise provided in or pursuant to Section 3.03 4) shall be given by written notice delivered personally or mailed or given by telegram, facsimile or email⁹ to each director at his/her business address or at such other address as such director shall have designated in writing filed with the Secretary, in each case not less than that number of hours prior thereto as set forth in Section 0.04. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. If by facsimile or email upon receipt of confirmation of delivery.¹⁰ Whenever any notice whatever is required to be given to any director of the corporation under the articles of incorporation or by-laws or any provision of law, a waiver thereof in writing, signed at any time, whether before or after the time of meeting, by the director so entitled to such notice, shall be deemed equivalent to the giving of such notice. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting and objects thereto to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

3.07. Quorum. A quorum of directors shall require the presence of a minimum of five¹¹ board members, but a majority of the directors present (though less than such a quorum) may adjourn the meeting¹² providing that further notice is given to the other directors of such adjourned meeting date and time.

⁸ Amended October 18, and 2004, following sections renumbered. Internal citations corrected with strike-outs/italics.

⁹ Amended July 21, 2006

¹⁰ Amended July 21, 2006

¹¹ Amended July 21, 2006

¹² Amended July 21, 2006

3.08. Manner of Acting. The majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by the articles of incorporation or these by-laws.

3.09. Conduct of Meeting. The President, and in his/her absence, a Vice-President in the order provided under Section 4.06, and in their absence, any director chosen by the directors present, shall call meetings of the Board of Directors to order and shall act as chairperson of the meeting. The Secretary of the corporation shall act as secretary of all meetings of the Board of Directors, but in the absence of the Secretary, the presiding officer may appoint any Assistant Secretary or any director or other person present to act as secretary of the meeting.

3.10. Vacancies. Any vacancy occurring in the Board of Directors, including a vacancy created by an increase in the number of directors, may be filled until the next succeeding annual election by the affirmative vote of a majority of the directors then in office, though less than a quorum of the Board of Director; provided, that in case of a vacancy created by the removal of a director by vote of the shareholders, the shareholders shall have the right to fill such vacancy at the same meeting or any adjournment thereof.

3.4011. Compensation. The Compensation of directors shall be determined by the Shareholders.¹³

3.4412. Presumption of Assent. A director of the corporation who is present at a meeting of the Board of Directors or a committee thereof of which he/she is a member at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his/her dissent shall be entered in the minutes of the meeting or unless he/she shall file his/her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

3.4213. Committees. The Board of Directors by resolution adopted by the affirmative vote of a majority of the number of directors as provided in Section 0.03 may designate one or more committees, each committee to consist of three or more directors elected by the Board of Directors, which to the extent provided in said resolution as initially adopted, and as thereafter supplemented or amended by further resolution adopted by a like vote, shall have and may exercise, when the Board of Directors is not in session, the powers of the Board of Directors in the management of the business and affairs of the corporation, except action in respect to dividends to shareholders, election of the principal officers or the filling of vacancies in the Board of Directors or committees created pursuant to this section. The Board of Directors may elect one or more of its members as alternate members of any such committee who may take the place of any absent member or members at any meeting of such committee, upon request by the President or upon request by the chairman/chairperson of such meeting. Each such committee shall fix its own rules governing the conduct of its activities and shall make such reports to the Board of Directors of its activities as the Board of Directors may request.

¹³ Amended October 18, 2004.

3.4314. Unanimous Consent Without Meeting. Any action required or permitted by the articles of incorporation or by-laws or any provision of law to be taken by the Board of Directors at a meeting or by resolution may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors then in office.

Article IV. Officers

4.01. Number. The principal officers of the corporation shall be a President, the number of Vice-Presidents as provided in Section 0.05, a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary and the offices of President and Vice-President.

4.02. Election and Term of Office. The officers of the corporation to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the shareholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his/her successor shall have been duly elected or until his/her prior death, resignation or removal.

4.03. Removal. Any officer or agent may be removed by the Board of Directors whenever in its judgment the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment shall not of itself create contract rights.

4.04. Vacancies. A vacancy in any principal office because of death, resignation, removal, disqualification or otherwise, shall be filled by the Board of Directors for the unexpired portion of the term.

4.05. President. The President shall be the principal executive officer of the corporation and, subject to control of the Board of Directors shall in general supervise and control all of the business and affairs of the corporation. He/she shall, when present, preside at all meetings of the shareholders and of the Board of Directors. He/she shall have authority, subject to such rules as may be prescribed by the Board of Directors, to appoint such agents and employees of the corporation as he/she shall deem necessary, to prescribe their powers, duties and compensation, and to delegate authority to them. Such agents and employees shall hold office at the discretion of the President. He/she shall have authority to sign, execute and acknowledge, on behalf of the corporation, all deeds, mortgages bonds, stock certificates, contracts, leases, reports and all other documents or instruments necessary or proper to be executed in the course of the corporation's regular business or which shall be authorized by resolution of the Board of Directors; and, except as otherwise provided by law or the Board of Directors, he/she may authorize any Vice-President or other officer or agent of the corporation to sign, execute and acknowledge such documents or instruments in his/her place and stead. In general he/she shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

4.06. The Vice-Presidents. In the absence of the President or in the event of his/her death, inability or refusal to act, or in the event for any reason it shall be impracticable for the President to act personally, the Vice-President (or in the event there be more than one Vice-President, the Vice-

Presidents in the order designated by the Board of Directors, or in the absence of any designation, then in the order of their election) shall perform the duties of the President and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice-President may sign, with the Secretary or Assistant Secretary, certificates for shares of the corporation; and shall perform such other duties and have such authority as from time to time may be delegated or assigned to him/her by the President or by the Board of Directors. The execution of any instrument of the corporation by any Vice-President shall be conclusive evidence, as to third parties, of his/her authority to act in the stead of the President.

4.07. The Secretary. The Secretary shall:

- (a) keep the minutes of the meetings of the shareholders and of the Board of Directors in one or more books provided for that purpose;
- (b) see that all notices are duly given in accordance with the provisions of these by-laws or as required by law;
- (c) be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all documents the execution of which on behalf of the corporation under its seal is duly authorized;
- (d) keep or arrange for the keeping of a register of the post office address of each shareholder which shall be furnished to the Secretary by such shareholder;
- (e) sign with the President, or a Vice-President, certificates for shares of the corporation, the issuance of which shall have been authorized by resolution of the Board of Directors;
- (f) have general charge of the stock transfer books of the corporation; and
- (g) in general perform all duties incident to the office of Secretary and have such other duties and exercise such authority as from time to time may be delegated or assigned to him/her by the President or by the Board of Directors.

4.08. The Treasurer. The Treasurer shall:

- (a) have charge and custody of and be responsible for all funds and securities of the corporation;
- (b) receive and give receipts for moneys due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Section 5.04; and
- (c) in general perform all of the duties incident to the office of Treasurer and have such other duties and exercise such other authority as from time to time may be delegated or assigned to him/her by the President or by the Board of Directors.

If required by the Board of Directors, the Treasurer shall give bond for the faithful discharge of his/her duties in such sum and with such surety or sureties as the Board of Directors shall determine.

4.09. Assistant Secretaries and Assistant Treasurers. There shall be such number of Assistant Secretaries and Assistant Treasurers as the Board of Directors may from time to time authorize. The Assistant Secretaries may sign with the President or a Vice-President certificates for shares of the corporation the issuance of which shall have been authorized by a resolution of the Board of Directors. The Assistant Treasurers shall respectively, if required by the Board of Directors give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties and have such authority as shall from time to time be delegated or assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors.

4.10. Other Assistants and Acting Officers. The Board of Directors shall have the power to appoint any person to act as assistant to any officer, or as agent for the corporation in his/her stead, or to perform the duties of such officer whenever for any reason it is impracticable for such officer to act personally, and such assistant or acting officer or other agent so appointed by the Board of Directors shall have the power to perform all the duties of the office to which he/she is so appointed to be assistant, or as to which he/she is so appointed to act, except as such power may be otherwise defined or restricted by the Board of Directors.

4.11. Salaries. The salaries of the principal officers shall be fixed from time to time by the Board of Directors or by a duly authorized committee thereof, and no officer shall be prevented from receiving such salary by reason of the fact that he/she is also a director of the corporation.

Article V. Contracts, Loans, Checks and Deposits; Special Corporate Acts

5.01. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute or deliver any instrument in the name of and on behalf of the corporation, and such authorization may be general or confined to specific instances. In the absence of other designation, all deeds, mortgages and instruments of assignment or pledge made by the corporation shall be executed in the name of the corporation by the President or one of the Vice-Presidents and by the Secretary, an Assistant Secretary, the Treasurer or any Assistant Treasurer; the Secretary or an Assistant Secretary, when necessary or required, shall affix the corporate seal thereto; and when so executed no other party to such instrument or any third party shall be required to make any inquiry into the authority of the signing officer or officers.

5.02. Loans. No indebtedness for borrowed money shall be contracted on behalf of the corporation and no evidences of such indebtedness shall be issued in its name unless authorized by or under the authority of a resolution of the Board of Directors. Such authorization may be general or confined to specific instances.

5.03. Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation, shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by or under the authority of a resolution of the Board of Directors.

5.04. Deposits. All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositaries as may be selected by or under the authority of a resolution of the Board of Directors.

5.05. Voting of Securities Owned by this Corporation. Subject always to the specific directions of the Board of Directors, (a) any shares or other securities issued by any other corporation and owned or controlled by this corporation may be voted at any meeting of security holders of such other corporation by the President of this corporation if he/she be present, or in his/her absence by any Vice-President of this corporation who may be present, and (b) whenever, in the judgment of the President, or in his/her absence, of any Vice-President, it is desirable for this corporation to execute a proxy or written consent in respect to any shares or other securities issued by any other corporation and owned by this corporation, such proxy or consent shall be executed in the name of this corporation by the President or one of the Vice-Presidents of this corporation, without necessity

of any authorization by the Board of Directors, affixation of corporate seal or countersignature or attestation by another officer. Any person or persons designated in the manner above stated as the proxy or proxies of this corporation shall have full right, power and authority to vote the shares or other securities issued by such other corporation and owned by this corporation the same as such shares or other securities might be voted by this corporation.

Article VI. Certificates for Shares and Their Transfer

6.01. Certificates for Shares. Certificates representing shares of the corporation shall be in such form, consistent with law, as shall be determined by the Board of Directors. Such certificates shall be signed by the President or a Vice-President and by the Secretary or an Assistant Secretary. All certificates for shares shall be consecutively numbered or otherwise identified. The name and address of the person to whom the shares represented thereby are issued, with the number of shares and date of issue, shall be entered on the stock transfer books of the corporation. All certificates surrendered to the corporation for transfer shall be cancelled and no new certificate shall be issued until the former certificate for a like number of shares shall have been surrendered and cancelled, except as provided in Section 6.06.

6.02. Facsimile Signatures and Seal. The seal of the corporation on any certificates for shares may be a facsimile. The signatures of the President or Vice-President and the Secretary or Assistant Secretary upon a certificate may be facsimiles if the certificate is manually signed on behalf of a transfer agent, or a registrar other than the corporation itself or an employee of the corporation.

6.03. Signature for Former Officers. In case any officer, who has signed or whose facsimile signature has been placed upon any certificate for shares, shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he/she were such officer at the date of its issue.

6.04. Transfer of Shares. Prior to due presentment of a certificate for shares for registration of transfer the corporation may treat the registered owner of such shares as the person exclusively entitled to vote, to receive notifications and otherwise to have and exercise all rights and power of an owner. Where a certificate for shares is presented to the corporation with a request to register for transfer, the corporation shall not be liable to the owner or any other person suffering a loss as a result of such registration of transfer if (a) there were on or with the certificate the necessary endorsements, and (b) the corporation had no duty to inquire into adverse claims or has discharged any such duty. The corporation may require reasonable assurance that said endorsements are genuine and effective and compliance with such other regulations as may be prescribed by or under the authority of the Board of Directors.

6.05. Restrictions on Transfer. The face or reverse side of each certificate representing shares shall bear a conspicuous notation of any restriction imposed by the corporation upon the transfer of such shares.

6.06. Lost, Destroyed or Stolen Certificates. Where the owner claims that his/her certificate for shares has been lost, destroyed or wrongfully taken, a new certificate shall be issued in place thereof if the owner (a) so requests before the corporation has notice that such shares have been acquired by a bona fide purchaser, and (b) files with the corporation a sufficient indemnity bond, and (c) satisfies such other reasonable requirements as may be prescribed by or under the authority of the Board of Directors.

6.07. Consideration for Shares. The shares of the corporation may be issued for such consideration as shall be fixed from time to time by the Board of Directors, provided that any shares having a par value shall not be issued for a consideration less than the par value thereof. The consideration to be paid for shares may be paid in whole or in part, in money, in other property, tangible or intangible, or in labor or services actually performed for the corporation. When payment of the consideration for which shares are to be issued shall have been received by the corporation, such shares shall be deemed to be fully paid and nonassessable by the corporation. No certificate shall be issued for any share until such share is fully paid.

6.08. Stock Regulations. The Board of Directors shall have the power and authority to make all such further rules and regulations not inconsistent with the statutes of the State of Wisconsin as it may deem expedient concerning the issue, transfer and registration of certificates representing shares of the corporation.

Article VII. Seal

The corporation shall have no corporate seal.

Article VIII. Amendments

8.01. By Shareholders. These by-laws may be altered, amended or repealed and new by-laws may be adopted by the shareholders by affirmative vote of not less than a majority of the shares present or represented at any annual or special meeting of the shareholders at which a quorum is in attendance.

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8.02. Implied Amendments. Any action taken or authorized by the shareholders or by the Board of Directors, which would be inconsistent with the by-laws then in effect but is taken or authorized by affirmative vote of not less than the number of shares or the number of directors required to amend the by-laws so that the by-laws would be consistent with such action, shall be given the same effect as though the by-laws had been temporarily amended or suspended so far, but only so far, as is necessary to permit the specific action so taken or authorized.

Article IX. Indemnity of Officers and Directors

9.01. Every person who is or was a director or officer of the corporation, and any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, shall (together with the heirs, executors and administrators of such person) be indemnified by the corporation against all costs, damages and expenses asserted against, incurred by or imposed upon him/her in connection with or resulting from any claim, action, suit or proceeding, including criminal proceedings, to which he/she is made or threatened to be made a party by reason of his/her being or having been such director or officer, except in relation to matters as to which a recover shall be had against him/her by reason of his/her having been finally adjudged in such action, suit or proceeding to have been guilty of fraud in the performance of his/her

¹⁴ Amended October 18, 2004.

duty as such officer or director. This indemnity shall include reimbursement of amounts and expenses incurred and paid in settling any such claim, action, suit or proceeding, a conviction or judgment (whether based on a plea of guilty or nolo contendere or its equivalent, or after trial) shall not be deemed an adjudication that such director or officer is guilty of fraud in the performance of his/her duties, if such director or officer was acting in good faith in what he/she considered to be the best interests of the corporation and with no reasonable cause to believe that the action was illegal.

Article X. Disallowance of Officers Salaries/IRS

10.01. All salary payments made to officers of the corporation that may be disallowed in whole or in part, as a deductible expense for Federal income tax purposes, of the corporation, shall be reimbursed by such officer to the corporation, to the full extent of the disallowance. It shall be the duty of the Board of Directors to enforce payment of each such amount disallowed.

Article XI. Avoidance of Double Taxation

11.01. The work of the employees of the corporation requires considerable travel and promotional activity, and it is hereby declared the policy of the Board of Directors to permit liberal expenditures for these purposes. In the event that either the State or Federal tax authorities shall substitute their judgment for the judgment of the Board of Directors or any officer as to what expenditures are necessary to further the business of this corporation, any amounts so disallowed when finally determined by agreement or litigation are hereby declared additional compensation to the respective employee so that he or she carry out the policy herein expressed.

11.02. The salaries set by the Board of Directors for the employees of the corporation are based on current and past services rendered by such employees and are believed to be reasonable in amount. However, should either the State or Federal tax authorities substitute their judgment for the judgment of the Board of Directors as to what compensation any employee deserves, such determination, when finally determined by agreement or litigation, shall be adopted as the correct compensation for such employee for the taxable year or years involved. Within 90 days after such final determination by either government, the employee shall repay to the corporation such excessive salary. In the event the tax authorities do not agree that these amounts are additional compensation to the respective employee then the amounts shall be subject to the provisions of the next paragraph.

11.03. All other contracts, leases and other transactions with any person related in any way to the corporation, directly or indirectly, shall be subject to this same condition: Should either the State or Federal tax authorities substitute their judgment as to what is reasonable in amount for the amount agreed upon in such contract, lease or other transaction, then the amount finally determined by such tax authorities by agreement or litigation shall be adopted as the correct consideration for the taxable year or years involved. Within 90 days after such final determination by either government, such related party shall repay to the corporation the amount termed excessive.

11.04. Should either the State or Federal tax authorities determine that any income or deductions of the corporation is in their judgment allocable to some other related person or related entity, the amount finally determined by such tax authorities by agreement or litigation shall be adopted as the correct allocation for the taxable year or years involved. Within 90 days after such final determination by either government, such reallocated amount shall be paid by or to the corporation,

as may be appropriate.

Article XII. Agreement with the Oneida Tribe of Indians of Wisconsin

Following are special provisions that control these By-laws, even if contrary or inconsistent with other corporate By-laws. These special provisions are being adopted pursuant to the Option to Purchase Stock Agreement made or to be made between Bay Bancorporation and Oneida Tribe of Indians of Wisconsin.

12.01. Statutory Elections. This Corporation shall be subject to the business combination provisions and restrictions of Sections 180.1140 through 180.1144 and the control share voting restrictions of Section 180.1150 under Wisconsin Business Corporation Structures.

12.02. Stock Ownership Limit. The Oneida Tribe of Indians of Wisconsin, its organizers, other shareholders, and their agents, representatives and affiliates, in any combination thereof, are prohibited from acquiring additional bank stock over and above the gross total of 40 percent of the Class A voting common stock of the Corporation until subsequent to the expiration of the option deadline set forth in the Option Agreement referred to above.

12.03. Additional Stock. All references to "stock" in this Article refers exclusively to Class A voting common stock, not to Class B non-voting common stock. If any additional stock is authorized by the Corporation then all existing shareholders shall be entitled to acquire a percentage of the new stock being issued equivalent to the percentage of the outstanding and issued stock said shareholders already own.

12.04. Special Director Appointments. For the first two years that stock is owned by the Oneida Tribe of Indians of Wisconsin, it may appoint two of the nine directors on the Board providing that the OTIW owns at least 33 percent of the outstanding issued stock. Beginning with the commencement with the third year of stock ownership by the OTIW of at least 33 percent of the outstanding issued stock, the OTIW shall be entitled to appoint three of the nine directors. The other seven directors during the first two years, and the other six directors during and after the third year of OTIW stock ownership shall be elected by the remaining shareholders other than the OTIW. All special director appointments authorized in the By-laws or Articles of the Corporation are subject to regulatory approval of the Federal Reserve Bank for both new appointments and changes to existing appointments.

12.05. First Refusal Redemption Rights. All references to "stock" in this paragraph refers exclusively to Class A voting common stock, not to Class B non-voting common stock. The Corporation requires that at all times all shareholders and the Corporation shall be subject to an agreement granting the Corporation a right of first refusal to acquire any stock that any stockholder intends to sell or otherwise transfer. Under this stock restriction the Corporation must be given notice of the name of the prospective transferee and a copy of the written purchase offer for any such stock. The Corporation shall have 30 days within which time to give notice of intent to exercise this right of first refusal at the same price, terms and conditions as set forth in the purchase offer. If the right of first refusal is elected to be exercised by the Corporation, closing shall take place either 30 days after said election of notice is given, or at the option of the Corporation, on the closing date specified in the third party offer. If the Corporation exercises the right to buy stock from an existing shareholder under its right of first refusal, the Corporation may resell this stock only to nonshareholder third parties, without regard to pre-emptive rights. Until such stock is resold the shares of stock so

acquired will be treated as outstanding voting stock for the purposes of all shareholder voting and these redeemed shares shall be voted according to the will of a majority of the Board of Directors. The only transfer exception allowed without complying with the right of first refusal shall be transfers to heirs or beneficiaries upon death of a shareholder, or transfers by sale, gift, or bequest to a spouse, children, parents, or brothers or sisters, or to a trust created for the benefit of such person or persons.

Approval and Adoption

The above By-laws were approved and adopted by unanimous consent of the directors on the ____ day of ____, 1995.

Corporate Secretary.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: ~~06~~/~~28~~/~~17~~ Item deferred to and tabled at 7/12/17 OBC Meeting

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

[Empty text box]

Agenda Header: Appointments

Accept as Information only

Action - please describe:

BC to approve recommendation to appoint Robert Barton to serve on the Oneida Airport Hotel Corporation Board of Directors.

3. Supporting Materials

Report Resolution Contract

Other:

1. memo

3. [Empty text box]

2. [Empty text box]

4. [Empty text box]

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison: Cristina Danforth, Tribal Chairwoman

Primary Requestor/Submitter: Submitted by Lora Skenandore, Assistant to Chairwoman Danforth
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

The memo attached has all the information required.

Excerpt from July 12, 2017:

(1) Motion by Fawn Billie to approve the recommendation to appoint Robert Barton to the Oneida Airport Hotel Corporation Board of Directors, seconded by David Jordan. Motion not voted on; item tabled.

(2) Motion by Lisa Summers to table this item, seconded by Tehassi Hill. Motion carried unanimously.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org



Oneida Nation
Oneida Business Committee
PO Box 365 • Oneida, WI 54155-0365
oneida-nsn.gov



TO: ONEIDA BUSINESS COMMITTEE
FROM: CHAIRWOMAN TINA DANFORTH *CSD*
DATE: JUNE 20, 2017
RE: ONEIDA AIRPORT HOTEL CORPORATION

There are 2 applicants for 1 vacancies on the Oneida Airport Hotel Corporation Board of Directors. The applicants are: Matt Kunstman and Robert Barton.

The candidates are qualified to serve. In accordance with the Article VI., Section 6-2 (c) of the Comprehensive Policy Governing Boards, Committees and Commissions, I recommend **Robert Barton** to be appointed to serve on the Oneida Airport Hotel Corporation Board of Directors.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

REQUEST FOR THIS AGENDA ITEM TO BE SCHEDULED AT 1:30 PM AT JULY 26 MEETING.
For Solar Deployment on Tribal Facilities project:
1) approve Operating Agreement, contingent upon positive review from Sovereign Finance.
2) approve Michael Troge to be Oneida Nation representative of Oneida Nation Solar LLC.
3) approve James Bittorf to be Oneida Nation Dispute Representative of Oneida Nation Solar LLC.
4) Request to submit supporting materials by Friday, July 21, 2017.

3. Supporting Materials

Report Resolution Contract

Other:

1. 3.
2. 4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Michael Troge, Environmental Health and Safety
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

The Project Team is seeking approval of the operating agreement and the selection for Oneida Nation representatives for Oneida Nation Solar LLC.

Project is at a critical time for the following reasons:

1. The project team must allow enough time for construction to beat seasonal weather patterns and grant deadlines.
2. Construction start date is dependent upon permit reviews, site preparation, and other tasks that influence construction timelines.
3. Federal policy proposals regarding taxes on imports could significantly impact solar equipment costs in the future. Further delays could threaten the 2017 deadline and attempts to revive the project in 2018 will likely be unsuccessful.

As detailed in the attached memo the project has undergone many levels of due diligence to date, including the independent legal and financial consultants that were brought under contract early in the design development process.

1) Save a copy of this form for your records.

2) Print this form as a *.pdf OR print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Environmental, Health & Safety Division

Little Bear Development Office
PO Box 365
N7332 Water Circle Place
Oneida, WI 54155
Phone (920) 869-4591



Conservation Field Office
PO Box 365
N8047 County Road U
Oneida, WI 54155
Phone (920) 869-1450

July 18, 2017

To: Oneida Business Committee
From: Patrick Pelky, EHS Division Director
Michael Troge, Solar Deployment Project Manager
Re: Solar Deployment approval process

The project team recently met to discuss the choice for the representatives on Oneida Nation Solar, LLC and the status of the Finance Department's independent review of the legal and financial components of the Solar Deployment Project. The Department's review is not yet complete, however the team recognizes that the project has gone through multiple levels of due diligence to provide the current Operating Agreement and associated documents. The Sovereign Finance's review is a final check of the terms of the Agreement, and from Mr. Barton's standpoint, should not delay approval of the Operating Agreement and commencement of construction activities.

The Finance Office was not informed of our tight timeline until we submitted the BDO results for their review. The timeline was short for the Sovereign Finance review of the work performed by The National Renewable Energy Laboratory (NREL), BDO Consulting and Ater Wynne LLP.

Therefore, our team is requesting the following:

1. Business Committee to approve Michael Troge, Environmental, Health & Safety Project Manager, as the Oneida Nation representative for the Oneida Nation Solar, LLC.
2. Business Committee to approve James Bittorf, Deputy Chief Counsel, as the Oneida Nation Dispute Representative for the Oneida Nation Solar, LLC.
3. Business Committee to approve the Operating Agreement of Oneida Nation Solar, LLC, with the understanding that the project will not proceed if Sovereign Finance identifies issues which cannot be remedied. The Oneida Nation's Law Office has issued a legal review of the final draft.

Project is at a critical time for the following reasons:

1. The project team must allow enough time for construction to beat seasonal weather patterns and grant deadlines.
2. Construction start date is dependent upon permit reviews, site preparation, and other tasks that influence construction timelines.
3. Federal policy proposals regarding import taxes could significantly impact solar equipment costs in the future. Further delays could threaten the 2017 deadline and attempts to revive the project in 2018 will likely be unsuccessful.

The following is a list of actions that support the due diligence process to date:

1. Legal and Financial consultants were selected to perform independent analysis for this project following a detailed RFP process.
2. The National Renewable Energy Laboratory (NREL) is a federal facility that specializes in the technical and legal aspects of energy projects. Their technical assistance was awarded to Oneida following a grant application in 2015.
3. Several Oneida Nation departments and affiliates are represented on the project team, including Law Office, Engineering, Planning, Facilities, Electrical, Zoning, Indian Preference, Gaming, Oneida Seventh Gen., and Finance Department.
4. The Department of Energy, Office of Indian Energy, evaluated the project grant proposal and awarded the grant in 2014 with the understanding that the grant will be matched with an investment by a private company. The Office has provided legal language to meet the requirements of the grant and the Code of Federal Regulations.
5. The RFP to select a solar consultant was developed by Tribal staff, Ater Wynne, BDO, and NREL. The RFP contained legal, financial, and technical criteria to be used in the selection process.
6. The project investor, SunVest Inc., was selected following a successful RFP process in 2016. Four proposals were received.
7. Negotiations between the project team and SunVest continued from April, 2016 to present to develop an agreement that is favorable to both Oneida and SunVest.
8. BDO provided a cash flow analysis for the project and a background check of SunVest that found satisfactory results.
9. Ater Wynne has thoroughly reviewed the project documents and have incorporated the appropriate language to support the intent of the relationship between Oneida Nation and SunVest.

Other activities that support BC project approval:

1. Construction plans are 99% complete and vetted by the project team. Buildings include IMAC, Health Center, Anna John, Elder Service Apartments, Food Distribution, and Cty. H Recreation Center.
2. The electrical contractor, Current Electric Company out of Brookfield, WI, has been selected to install the system. They will meet with Indian Preference upon BC approval.
3. Permit applications shall be issued to Zoning Dept. upon BC approval.
4. Utility applications shall be issued to WE Energies and Wisconsin Public Service upon BC approval Operating Agreement.
5. Structural analyses for all buildings on the project list have passed inspection by Corre, Inc., Structural Engineer, and reviewed by Paul Witek, Oneida Nation Architect.
6. Training has been provided to Tribal Electricians to assist with operations and maintenance work and in preparation for Oneida Nation to take full ownership of the solar project.
7. The Department of Energy grant deadline has been extended to 12/31/2017.

8. The WI Public Service Commission Office of Energy Innovation has awarded a grant to Oneida Nation to assist with project activities and training. Funds must be spent by 12/31/2017.
9. Austin Straubel Airport director and the FAA have determined that the solar will not interfere with operations and the project may proceed.



Oneida Community Health Center solar array

ONEIDA LAW OFFICE*CONFIDENTIAL: ATTORNEY/CLIENT WORK PRODUCT*

TO: Michael Troge
Environmental Health & Safety

Use this number on future correspondence:

FROM: James R. Bittorf, Deputy Chief Counsel

2017-0655

DATE: July 17, 2017

RE: Oneida Nation Solar LLC-Operating Agreement
REVISED

<i>Purchasing Department Use</i>
<input checked="" type="checkbox"/> Contract Approved
<input type="checkbox"/> Contract Not Approved <i>(see attached explanation)</i>

If you have any questions or comments regarding this review, please call 869-4327.

The attached agreement, contract, policy and/or guaranty has been reviewed by the Oneida Law Office for legal content only. Please note the following:

- ✓ The document is in appropriate legal form. *(Execution is a management decision.)*
- ✓ Requires Business Committee approval prior to execution.

Note: The Nation retained Ater Wynne LLP to assess compliance with Department of Energy Grant Terms and Conditions, tax implications under the Internal Revenue Code, and the structure of the agreement. The Nation also retained BDO to assess tax implications under the Internal Revenue Code and valuation of the proposed solar installations. The Oneida Law Office has relied upon the assessments and reviews of Ater Wynne LLP and BDO in conducting legal review of the agreement.

FINAL DRAFT 07/13/2017

OPERATING AGREEMENT
OF
ONEIDA NATION SOLAR, LLC
a Wisconsin limited liability company

**OPERATING AGREEMENT
OF
ONEIDA NATION SOLAR, LLC,
a Wisconsin limited liability company**

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**OPERATING AGREEMENT
OF
Oneida Nation Solar, LLC**

This Operating Agreement (this “Agreement”) of Oneida Nation Solar, LLC (“Company”) is effective as of July 27, 2017 (the “Effective Date”) by and between the undersigned Members. The Members agree to be bound by all the terms and conditions of this Agreement with respect to all of their Units currently held or hereafter acquired. Capitalized terms used in this Agreement without definition shall have the meanings assigned to them in Exhibit A, attached hereto.

RECITALS

- A. Company was formed on July 21, 2017 as a manager-managed limited liability company by filing Articles of Organization with the Department of Financial Institutions of the State of Wisconsin in accordance with the Act.
- B. The Members wish to enter into this Agreement for the purposes of providing the rights, obligations, and restrictions contained in this Agreement and otherwise to govern the operations and management of Company.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises made in this Agreement, the Members agree as follows:

**Article 1
GENERAL PROVISIONS**

- 1.1 **Name.** The name of Company is Oneida Nation Solar, LLC.
- 1.2 **Registered Office and Agent.**
 - (a) **Initial Registered Office and Agent.** Company’s registered office shall initially be Energy Law Wisconsin, 1500 West Main St., Suite 300, and Company’s registered agent shall initially be Michael J. Allen, Attorney at Law.
 - (b) **Changes.** The Co-Managers shall have the authority, acting by unanimous consent, to appoint a new registered agent for the Company and change the registered office of the Company.
 - (d) **Filing upon Change.** Upon the appointment of a new registered agent or the change of the registered office, the Co-Managers shall file or cause the filing of the appropriate documents required by the Act.
- 1.3 **Purpose.** The purpose of Company is to develop, own and operate one or more solar photovoltaic arrays in the State of Wisconsin (collectively, the “Facility”). Company will

operate the Facility solely for the purpose of supplying solar-powered electricity to the Tribe on its trust lands. Company has the authority to do all things necessary or convenient to accomplish its purpose and to operate its business as described in this Section 1.3.

1.4 **Term.** Company will continue indefinitely under the terms and conditions of this Agreement until it is dissolved and its affairs wound up in accordance with the Act and this Agreement.

1.5 **Department of Energy Grant Requirements.**

(a) Each Member understands and acknowledges that Tribe is a recipient (“Recipient”) of an award (“Award”) from the U.S. Department of Energy (“DOE”) to be used for funding the Tribe’s contributions required for the Facility. The Members are considered “subrecipients”, as that term is defined in 2 CFR §200.93, with respect to the Award and are subject to all applicable statutory and regulatory requirements associated with the Award. Each Member agrees to be bound by the Special Terms and Conditions of the Award, as applicable (“Terms and Conditions”), including the Intellectual Property Provisions (2 CFR §200.101; *see also* 2 CFR §910.122). A copy of the Terms and Conditions is attached hereto as Exhibit C. Requirements of the Terms and Conditions of the Award include, but are **not limited to**, (a) the Company cannot encumber any property or equipment acquired in full or in part by project funds including both DOE and Recipient provided cost share), without obtaining prior approval from the DOE Contracting Officer (*see* 2 CFR §200.313 and 2 CFR §910.360); (b) the Company cannot earn or retain any fee or profit resulting from Federal financial assistance, unless explicitly authorized by the Terms and Conditions of the Federal award (*see* 2 CFR §910.307, 2 CFR §910.358, and 2 CFR §910.400); (c) any Program Income earned during the Federal award period of performance must follow the Use of Program Income Term, in the Terms and Conditions of this Award; and (d) the provisions under 2 CFR §200.326.

Article 2

CAPITAL CONTRIBUTIONS, UNITS AND CERTAIN RIGHTS

2.1 **Equity Structure.** The ownership of Company shall be represented by Units having the rights and obligations specified in this Agreement. The number of Units held by each Member is set forth on Exhibit B, attached hereto, as modified from time to time pursuant to Section 2.4. Persons may be admitted as additional Members only as and to the extent expressly provided for in this Article 2 and in Article 7, and Capital Contributions may be accepted only as and to the extent expressly provided for in this Article 2.

2.2 **Authorized and Additional Units.**

(a) **Outstanding Units.** As of the Effective Date, One Thousand (1,000) Units have been issued and are outstanding. Nine Hundred Ninety (990) of those Units are owned by Solar Investments WI, LLC, a Wisconsin limited liability company (“Investor”) and Ten (10) of those Units are owned by the Oneida Nation, a federally-recognized Indian tribe (the “Tribe”). In exchange for their Units, each of Investor and the Tribe have agreed to contribute to Company the amount of capital set forth opposite its name on Exhibit B (for each of Investor and the Tribe,

such amount, the “Capital Commitment”), and to make certain additional Capital Contributions to Company as set forth in Sections 2.3(a) and 2.3(c).

(b) **Additional Units.** The Co-Managers may, with the unanimous consent of the Members, authorize Company to issue additional Units to any Person in exchange for such Capital Contributions and on such terms and conditions as the Co-Managers determine, acting with the unanimous consent of the Members. Prior to the admission of any Person that is not yet a Member of Company as a new Member of Company and the issuance of any Units to such a Person, Company must have received a written instrument, in form and substance acceptable to Company, signed by or on behalf of such Person containing the Person’s express acceptance of and agreement to be bound by all the terms and conditions of this Agreement, including any amendments adopted pursuant to the terms hereof. The Members acknowledge that their respective interests in Company may be diluted by the issuance of such additional Units.

2.3 **Capital Calls.**

(a) **Construction of the Facility.** If Company receives an invoice requesting payment for work performed related to the construction of the Facility, and if the Co-Managers determine that Company has insufficient cash on hand to fully pay the same, then the Co-Managers shall determine if the work that is the subject of such invoice was performed in accordance with the Terms and Conditions of the Award. If the Co-Managers determine that the work that is the subject of such invoice was performed in accordance with the Terms and Conditions, then the Co-Managers shall deliver a written notice (a “Construction Capital Call”) to the Members, (i) informing them of the amount owing and enclosing a copy of such invoice and (ii) requesting that each Member confirm in writing the Co-Managers’ determination that the work that is the subject of such invoice was performed in accordance with the Terms and Conditions. No later than thirty (30) days following receipt of a Construction Capital Call, each Member shall provide the Co-Managers with a written notice either confirming the Co-Managers’ determination that the work that is the subject of such invoice was performed in accordance with the Terms and Conditions, or objecting to that determination. If the written notice from a Member confirms the Co-Managers’ determination that the work that is the subject of such invoice was performed in accordance with the Terms and Conditions, such Member shall include with such notice an additional Capital Contribution, in immediately available funds, in an amount equal to the *product of* (i) the amount of such invoice, *multiplied by* (ii) a fraction, (A) the numerator of which is such Member’s Capital Commitment and (B) the denominator of which is the aggregate of the Capital Commitments of all of the Members. Capital Contributions pursuant to this Section 2.3(a) shall be made with respect to the Units then held by the Member, and Company shall not issue any additional Units to the Member as a result of such Capital Contribution. If the written notice from a Member objects to the Co-Managers’ determination that the work that is the subject of such invoice was performed in accordance with the Terms and Conditions, then such notice shall set forth in detail the reason(s) for the Member’s objection, and the Co-Managers shall take such steps as are necessary to address such objection. Notwithstanding anything to the contrary in this Section 2.3(a), in no event shall the Capital Contributions made by a Member pursuant to this Section 2.3(a) exceed the Member’s Capital Commitment.

(b) **Legal Fees.** Investor and Tribe agree to pay their own respective legal fees.

(c) **Future Obligations of Company.** If, on or after the date on which the Facility is placed in service, any situation arises that causes Company to need additional funds, including, without limitation, Company incurring any costs in connection with the removal of all or any portion of the Facility, then the Co-Managers shall deliver a written notice (a “Future Capital Call”) to the Members, informing them of the total additional equity funds required by Company. Within thirty (30) days following receipt of a Future Capital Call, each Member shall deliver to Company an additional Capital Contribution, in immediately available funds, in an amount equal to:

(i) if Company’s need for additional funds arises as a result of Company’s incurrence or payment of insurance premiums, legal fees or accounting fees, each Member shall deliver an additional Capital Contribution that is equal to the *product of* (A) the amount of such additional funds, *multiplied by* (B) a fraction, (1) the numerator of which is the total number of Units then held by the Member and (2) the denominator of which is the aggregate of the Units then held by all of the Members. Company shall not issue any additional Units to the Member as a result of such Capital Contribution; or

(ii) if Company’s need for additional funds arises for any other reason, each Member shall deliver an additional Capital Contribution that is equal to the *product of* (A) the amount of such additional funds, *multiplied by* (B) a fraction, (1) the numerator of which is the total number of Units then held by the Member and (2) the denominator of which is the aggregate number of Units then held by all of the Members. Company shall not issue any additional Units to the Member as a result of such Capital Contribution.

(d) **Failure to Make Capital Contributions.** If a Member (the “Defaulting Member”) fails to make any Capital Contribution required pursuant to this Section 2.3 when due, the Member not in default in making a Capital Contribution (the “Non-Defaulting Member”) may pursue any and all legal remedies available to it. In addition, the Non-Defaulting Member may make, on behalf of the Defaulting Member, the Capital Contribution the Defaulting Member failed to make, and the amount thereof shall be treated as a loan (the “Default Loan”) to the Defaulting Member by the Non-Defaulting Member. The Default Loan shall bear interest at a fluctuating rate per annum equal to the prime rate of interest published from time to time in the Midwest edition of *The Wall Street Journal* (the “Prime Rate”), *plus* eight percent (8%) (such interest, the “Default Interest”), with any change in the Prime Rate to be effective as of the date such change is publicly announced. The Defaulting Member may pay the Capital Contribution the Defaulting Member failed to make, together with accrued Default Interest, at any time without further penalty other than the Default Interest. Any amounts distributable to the Defaulting Member pursuant to this Agreement shall, to the extent of the amount of the outstanding principal and interest of the Default Loan, be treated as distributed to the Defaulting Member, but shall be paid to the Non-Defaulting Member and credited first toward payment of accrued interest under the Default Loan with any remaining amount applied toward payment of principal under the Default Loan and any costs of collection shall be recoverable by the Non-Defaulting Member. Upon the written request of any Non-Defaulting Member loaning money hereunder, the Defaulting Member shall execute and deliver a promissory note evidencing the debt arising pursuant to this Section 2.3(d).

2.4 **Amendment of Exhibit B.** The Co-Managers may modify Exhibit B as appropriate from time to time to reflect Transfers of Units pursuant to Article 7 and the issuance of Units to and the admission of new Members, or the issuance of additional Units to existing Members, pursuant to this Article 2.

2.5 **Voting.** Except as set forth in Section 7.3(f), each issued Unit shall entitle the holder thereof to one (1) vote on all matters that come before the Members.

2.6 **Additional Capital Contributions.** Except as set forth in Section 2.3, the Members shall not be required to make any additional Capital Contributions or loans to Company.

2.7 **Return of Capital.** No Member is entitled to withdraw or resign from Company, to receive a return of any part of the Member's Capital Contribution, to receive any distribution, or to receive a repayment of any balance in the Member's Capital Account, except as expressly provided in this Agreement, including, without limitation, Section 7.4. No Member has the right to demand that distributions be in-kind. No Member will be paid interest on any Capital Contribution or on such Member's Capital Account.

2.8 **Limitation of Liability.** Except as may otherwise be provided under applicable law, no Member shall be bound by, or be personally liable for, the expenses, liabilities or obligations of Company. No Member shall be obligated to restore a Capital Account deficit.

Article 3 CAPITAL ACCOUNTS

3.1 **Capital Accounts.** There shall be established and maintained with respect to each Member a Capital Account in accordance with the following:

(a) **Credits.** To each Member's Capital Account there shall be credited (i) such Member's Capital Contributions, (ii) such Member's allocable share of Profits and special allocations of items in the nature of income or gain pursuant to Article 5, and (iii) the amount of any debt of Company that is assumed by the Member or that is secured by any property distributed to such Member.

(b) **Debits.** To each Member's Capital Account there shall be debited (i) the amount of cash and the Asset Value of any property distributed to the Member, (ii) the Member's allocable share of Losses and special allocations of items of deduction or loss pursuant to Article 5, and (iii) the amount of any debt of the Member that is assumed by Company or secured by any property contributed by the Member to Company.

(c) **Transfers.** In the event any Member Transfers all or any part of the Member's Units in accordance with the terms of this Agreement, the Transferee shall succeed to the Capital Account of the Transferor to the extent the Capital Account relates to the transferred Units.

3.2 **Interpretation.** The provisions of Section 3.1 and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Section 1.704-1(b) of the Treasury Regulations, the terms and requirements of which are incorporated in this Agreement by reference, and shall be interpreted and applied in a manner consistent with those terms and requirements. In the event the Co-Managers determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to indebtedness that is secured by contributed or distributed property or that is assumed by Company or the Members), are computed in order to comply with such Regulations, the Co-Managers may make such modification, provided that it is not likely to have a material effect on the amounts of distributions to any Member pursuant to Article 4 upon the dissolution of Company. The Co-Managers also shall have the right to (i) make any adjustments that are reasonably necessary or appropriate to maintain equality between the Capital Accounts and the amount of capital reflected on Company's balance sheet, as computed for book purposes, in accordance with Section 1.704-1(b)(2)(iv)(g) of the Treasury Regulations, and (ii) make any reasonably appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Section 1.704-1(b) of the Treasury Regulations, provided that in either case such adjustment or modification is not likely to have a material effect on the amounts of distributions to any Member pursuant to Article 4 upon the dissolution of Company.

Article 4 DISTRIBUTIONS

4.1 Current Distributions.

(a) **Current Tax Distributions.** To the extent permitted by law and consistent with Company's obligations to its creditors as determined by the Co-Managers, Company shall make Tax Distributions on or before the Tax Distribution Dates. The aggregate amount of the Tax Distribution made with respect to any given Tax Distribution Date shall be the product of (i) Company's estimated federal taxable income under the provisions of the Code for the Fiscal Period ending on the last day of the calendar month immediately preceding the Tax Distribution Date and commencing on the first day of the calendar month that includes the immediately previous Tax Distribution Date, multiplied by (ii) the applicable Tax Rate. Notwithstanding the foregoing, to the extent Company has had an estimated federal taxable loss for any prior Fiscal Period in that Fiscal Year, the amount in clause (i), above, shall be reduced by that portion of the loss remaining after reducing taxable income for prior Fiscal Periods in the Fiscal Year for the loss. Each Member shall receive a Tax Distribution proportional to the amount of federal taxable income to be allocated to the Member pursuant to Article 5; provided, however, that any federal taxable income not included in the determination of Company's estimated federal taxable income pursuant to the preceding sentence shall be disregarded for purposes of determining each Member's Tax Distribution. Tax Distributions shall constitute an advance of amounts otherwise distributable to the Member receiving the Tax Distribution and, accordingly, amounts otherwise distributable to the Member under Section 4.1(d) in the Fiscal Period in which the Tax Distribution is made or in subsequent Fiscal Periods shall be reduced until the cumulative amount of the reductions equals the cumulative amount of the Tax Distributions received by that Member.

(b) **Additional Tax Distributions.** In the event any income tax return of Company, as a result of an audit or otherwise, reflects items of income, gain, loss, or deduction that are different from the amounts estimated pursuant to Section 4.1(a) with respect to a Fiscal Year in a manner that results in additional income or gain of Company being allocated to the Members, an additional Tax Distribution shall be made under the principles of Section 4.1(a) to the Members who are allocated the additional income or gain, except that (i) the last day of the calendar month in which the adjustment occurs shall be treated as a Tax Distribution Date, (ii) the amount of the additional income or gain shall be treated as Company's federal taxable income, and (iii) the applicable Tax Rate shall be that which applied for the Fiscal Period to which the additional income or gain relates.

(c) **Tax Withholding.** To the extent Company is required to make any withholding or estimated tax payments to any taxing authority on behalf of a Member, such payment or withholding shall be considered a Tax Distribution to the Member on whose behalf such payment or withholding was made. Company shall reduce the amount of Tax Distributions pursuant to Section 4.1(a) and (b), if any, and, if necessary, amounts otherwise distributable under Section 4.1(d), to such Member for the actual and anticipated payments or withholdings related to any particular Fiscal Period.

(d) **Distributions of Cash Available for Distribution.** Except as provided in Sections 4.1(a), 4.1(b) and 4.1(c), Cash Available for Distribution shall be distributed at the times determined by the Co-Managers, acting with the unanimous consent of the Members. Any Cash Available for Distribution distributed pursuant to this Section 4.1(d) shall be distributed to the Members in proportion to the number of Units held by each of them at the time of the distribution, subject to any reduction in any such distribution pursuant to the terms of Section 4.1(a), 4.1(b) or 4.1(c), until Investor has received an amount pursuant to this Section 4.1(d) (including any amounts distributed under Section 4.1(a), 4.1(b) or 4.1(c) and treated as an advance of amounts otherwise distributable to Investor) equal to Four Hundred Forty-Six Thousand Dollars (\$446,000). After such time, any Cash Available for Distribution distributed pursuant to this Section 4.1(d) shall be distributed to the Tribe until the Tribe has received pursuant to this Section 4.1(d) (including any amounts distributed under Section 4.1(a), 4.1(b) or 4.1(c) and treated as an advance of amounts otherwise distributable to the Tribe) an amount equal to its aggregate Capital Contributions. After such time, any Cash Available for Distribution distributed pursuant to this Section 4.1(d) shall be distributed to the Members in proportion to the number of Units held by each of them at the time of the distribution, subject to any reduction in any such distribution pursuant to the terms of Section 4.1(a), 4.1(b) or 4.1(c).

4.2 **Liquidating Distributions and Distributions of Proceeds from a Capital Transaction.** In the event of a Capital Transaction or in the event Company is liquidated pursuant to Article 8, the Proceeds from a Capital Transaction or the assets to be distributed pursuant to Section 8.3 shall be distributed as follows:

- (a) to the payment of all matured debts and liabilities of Company;
- (b) to the repayment to the United States Department of Energy of any portion of the DOE Grant, if the requirement that all or such portion of the DOE Grant be repaid to the

United States Department of Energy arises as a result of the action or inaction of Company, the occurrence of a Capital Transaction or the liquidation of Company;

(c) to the setting up of any reserves which the Liquidator (or, in the event of a Capital Transaction, the Co-Managers) deems reasonably necessary for contingent, unmatured or unforeseen liabilities or obligations of Company; and

(d) the balance *pro rata* to the Members in accordance with their respective Capital Account balances, after making the adjustments for allocations under Article 5, up to and including the date of the distribution of the Proceeds from a Capital Transaction or the liquidating distributions.

Article 5 ALLOCATION OF PROFITS AND LOSSES

5.1 Allocation of Profits and Losses.

(a) **Allocation of Profits.** Except as otherwise provided in Sections 5.2 and 5.4(d), Profits shall be allocated to the Members, *pro rata* in accordance with their respective Units.

(b) **Allocation of Losses.** Except as otherwise provided in Sections 5.2 and 5.4(d), Losses shall be allocated to the Members, *pro rata* in accordance with their respective Units.

5.2 **Regulatory Allocations.** This Agreement shall be deemed to contain provisions relating to “minimum gain chargeback,” “nonrecourse deductions,” “qualified income offset,” “gross income allocations,” and any other provision required to be contained in this Agreement pursuant to the Treasury Regulations promulgated under Section 704(b) of the Code, other than any requirement that a Member be required to contribute to Company an amount equal to any deficit in the Member’s Capital Account.

No allocation of Loss shall be made to a Member if the allocation would result in a negative balance in the Member’s Capital Account in excess of the amount the Member is obligated to restore or deemed obligated to restore pursuant to the penultimate sentences of Section 1.704-2(g)(1) and (i)(5) of the Treasury Regulations. In the event there is a negative balance in the Member’s Capital Account in excess of the amount(s) set forth above, the Member shall be allocated income and gain in the amount of that excess as quickly as possible. Any Loss that cannot be allocated to a Member pursuant to the restrictions contained in this paragraph shall be allocated to other Members.

The allocations under the first two paragraphs of this Section 5.2 (the “Regulatory Allocations”) are intended to comply with the Treasury Regulations promulgated under Section 704(b) of the Code. The other provisions of this Article 5 notwithstanding, the Regulatory Allocations shall be taken into account in allocating other Profits, Losses and items of income, gain and deduction among the Members so that, to the extent possible, the net amount of the allocations of other Profits, Losses and other items and the Regulatory Allocations to each

Member shall equal the net amount that would have been allocated to each such Member if the Regulatory Allocations had not occurred.

5.3 Other Allocation Rules.

(a) **Transfer of Units.** If a Member Transfers all or any portion of the Member's Units pursuant to this Agreement during any Fiscal Period, the Profits (or Losses) allocated to the Members for each such Fiscal Period shall be allocated among the Members in proportion to their respective Units from time to time during the Fiscal Period, in accordance with Section 706 of the Code, using any convention permitted by law and selected by the non-Transferring Members.

(b) **Determination of Allocable Amounts.** The Profits, Losses, or any other items allocable to any Fiscal Period shall be determined on a daily, monthly, or other basis, as determined by the Co-Managers, using any permissible method under Section 706 of the Code and the Treasury Regulations under that section.

5.4 Tax Allocations.

(a) **Capital Contributions.** In accordance with Section 704(c) of the Code and the Treasury Regulations under that section, income, gain, loss, and deduction with respect to any contribution to Company's capital shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the property's adjusted basis to Company for federal income tax purposes and its initial Asset Value.

(b) **Adjustment of Asset Value.** If the Asset Value of any Company asset is adjusted, subsequent allocations of income, gain, loss, and deduction with respect to the asset shall take account of any variation between the asset's adjusted basis for federal income tax purposes and its Asset Value as so adjusted in the same manner as under Section 704(c) of the Code and the Treasury Regulations under that section.

(c) **Elections.** Any elections or other decisions relating to allocations shall be made by the Members in any manner that reasonably reflects the purpose and intent of this Agreement. In the event the Co-Managers cause Company to make a Code Section 754 election at the request of one or more Members, the requesting Member(s) shall bear any additional administrative and accounting expenses (whether in the year of the election or subsequent Fiscal Years) incurred as a result of the Code Section 754 election.

(d) **Imputed Interest.** To the extent Company has interest income or deductions with respect to any obligation of or to a Member pursuant to Section 483, Sections 1271-1288, or Section 7872 of the Code, the interest income or deductions shall be specially allocated to the Member to whom or to which the obligation relates.

5.5 **Income Tax Consequences.** The Members are aware of the income tax consequences of the allocations made by this Article 5 and hereby agree to be bound by the provisions hereof in reporting their shares of income and loss for income tax purposes. The Members acknowledge and agree that they intend any federal investment tax credit which arises

due to Company's construction and placement in service of the Facility to be allocated to the Members in accordance with the allocation of Profits set forth in Section 5.1(a), *that is, pro rata* in accordance with their respective Units.

Article 6 MANAGEMENT OF COMPANY AND ACTIONS BY MEMBERS

6.1 Authority and Powers of the Co-Managers.

(a) **Authority and Powers in General.** Except to the extent otherwise expressly provided in this Agreement, the business of Company shall be managed by the Co-Managers, and no Member shall have any right or power to take part in the management or control of Company or its business. The Co-Managers shall be considered the manager of Company under Sections 183.0102(13) and 183.0401(2) of the Act, provided the rights and responsibilities of the Co-Managers as manager shall be limited as expressly set forth in this Agreement. Except as such authority may be so limited, the Co-Managers shall have full and complete authority to manage the business of Company, to make all decisions regarding those matters, and to perform all other acts customary or incident to the management of Company's business. Members have the right to vote only on those matters expressly set forth in this Agreement or as required by the Act. The Co-Managers shall be selected by the Members in accordance with Section 6.2.

(b) **Specific Authority.** Without limiting the generality of the statement of authority set forth in Section 6.1(a), the Members acknowledge and agree that the Co-Managers are specifically authorized and directed to (i) pursue and exercise all rights and remedies available to Company under that certain Solar PV Contract for Purchase dated as of the date of this Agreement, by and between Company and Sunvest Solar Inc. (the "Solar PV Contract for Purchase") and/or any warranties, service agreements and the like involving all or any portion of the Facility and (ii) make all payments due under the Solar PV Contract for Purchase, either (A) pursuant to the procedure and subject to the rights of the Members set forth in Section 2.3(a), or (B) if the Co-Managers determine that Company has sufficient cash on hand to fully pay any invoice requesting payment for work performed related to the construction of the Facility, then after the Co-managers determines, with the unanimous consent of the Members, that the work that is the subject of such invoice was performed in accordance with the Terms and Conditions.

(c) **Actions Requiring Member Consent.** Without the unanimous consent of the Members, the Co-managers shall not have the authority to, and Company shall not:

- (i) deliver or execute the Solar PV Contract for Purchase;
- (ii) deliver or execute any notice, approval or other communication contemplated by, requested pursuant or affecting, or agree to any change order or other modification of, the Solar PV Contract for Purchase;
- (iii) borrow money or procure financing or refinancing, or mortgage or subject to another security interest any portion of Company's assets;

(iv) engage in the planning or construction of any solar photovoltaic system other than as contemplated in the Solar PV Contract for Purchase;

(v) sell, dispose of or otherwise transfer all or any portion of the Facility, except as provided for in that certain Solar Power Purchase Agreement dated as of the date of this Agreement, by and between Company and the Tribe;

(vi) consent to the issuance or other transfer of any debt or equity interest in Investor, as discussed in Section 7.7; or

(vii) report any gain, for federal and Wisconsin income tax purposes, from a Capital Transaction using the installment method of accounting. For the sake of clarity, in the absence of the unanimous consent of the Members that gain from a Capital Transaction shall be reported using such installment method, the Co-Managers shall, or shall cause Company to, take such actions and make such elections as are required to report all gain, for federal and Wisconsin income tax purposes, from a Capital Transaction in the taxable year in which the Capital Transaction occurs.

(d) **Absolute Restrictions.** The Co-Managers shall not have the authority to:

(i) do any act in contravention of applicable law or this Agreement or that would make it impossible to carry on the ordinary business of Company;

(ii) possess property of Company, or assign rights in specific property of Company for other than a purpose of Company;

(iii) perform any act that would subject a Member to liability in any jurisdiction except as expressly provided in this Agreement;

(iv) take any action or make any election which would cause Company to be treated as other than a partnership for federal and state income tax purposes; or

(v) take any other action requiring the consent of all or any of the Members pursuant to nonwaivable provisions of the Act or other applicable law or under the terms of this Agreement without first obtaining the required consent.

6.2 Election and Qualification of the Co-Managers.

(a) **General.** There shall be two (2) Managers of Company. One (1) Manager shall be appointed by Investor and one (1) Manager shall be appointed by the Tribe. These Managers shall be referred to collectively in this Agreement as the “Co-Managers”. The Co-Managers need not be Members of Company. Each of the Co-Managers shall hold office until the occurrence of an event set forth in Section 6.2(b). The Members acknowledge and agree that, as of the Effective Date, the Manager appointed by Investor is Jeff Knudtson and the Manager appointed by the Tribe is Michael Troge.

(b) **Withdrawal or Replacement of Manager.** A Person shall cease to be a Manager upon the earliest to occur of any of the following: (i) the Person’s voluntary

resignation, which shall be effective upon delivery of a written notice from the Member who appointed that Person as Manager of such resignation and the name of the replacement Manager to Company and the other Member unless the notice specifies a later effective date; (ii) the Person's removal by the appointing Member and delivery of notice of such removal and the name of the replacement manager to Company and the other Member; or (iii) the Person's death, incapacity, gross negligence, or inability to act as a Manager for any reason.

(c) **Vacancy.** Upon the withdrawal of a Manager pursuant to Section 6.2(b), the appointing Member shall, as promptly as practicable, choose a substitute Manager as provided in Section 6.2(a). If either Member at any time lacks a Manager, that Member shall perform the duties of the Manager unless and until that Member selects a replacement Manager. Investor and Tribe shall each use good faith efforts to avoid or minimize any delay or disruption in the management of the Company caused by the inability, or unwillingness to serve of any Person appointed by Manager. This shall include, without limitation, promptly appointing a replacement Manager. The lack of a Manager shall not cause a dissolution or termination of Company.

6.3 **Limitation of Liability of the Co-Managers.** The Co-Managers shall perform the Co-Managers' duties to Company in good faith, in a manner the Co-Managers reasonably believe to be in the best interests of Company and with such care as an ordinarily prudent person in a like position would use under similar circumstances. A Manager who so performs the Manager's duties to Company shall not have any liability by reason of being or having been a Manager of Company. A Manager in the Manager's role as such shall not be liable to Company or to any Member for any loss or damage sustained by Company or any Member, unless the loss or damage is the result of fraud, deceit, willful misconduct or wrongful taking by the Manager.

6.4 **Actions by Co-Managers.** Any actions of the Co-Managers shall be taken in the manner set forth below, unless expressly provided otherwise in this Agreement:

(a) **Manner of Acting.** Except where a specific act or duty is expressly delegated to one of the Managers in this Agreement, the Co-Managers shall act by unanimous consent. Such action may be authorized by unanimous consent at a meeting at which both Co-Managers participate in person or by telephone or other electronic means. The Co-Managers may also approve any action without a meeting, without prior written notice and without a vote, if consent or consents in writing, setting forth the action so taken, shall be signed by all of the Co-Managers.

(b) **Records.** Company shall keep written records of all actions taken by the Co-Managers.

(c) **Meetings.** Meetings of the Co-Managers may be called by either Manager. Meetings not held by electronic or telephonic means shall be held at Company's principal place of business or at such other place as may be reasonably designated by the Manager calling the meeting.

(d) **Voting.** Each Manager shall have one (1) vote as to any given matter submitted for a vote.

6.5 **Powers of Members.** Except in any situation in which powers are exclusively reserved to the Members in nonwaivable provisions of the Act (in the sense that the arrangement may not be changed pursuant to an operating agreement of a limited liability company), or as expressly provided in this Agreement, the Members shall not have the power to manage or control the affairs of Company or to bind or obligate Company in any manner.

6.6 **Actions by Members.** Any actions of the Members shall be taken in the manner set forth below, unless expressly provided otherwise in this Agreement:

(a) **Manner of Acting.** Except as otherwise provided in this Agreement, the consent of the Members to any act or failure to act may be given by unanimous consent at a meeting at which a quorum of the Members (as defined in Section 6.6(f)) participate in person or by telephone or other electronic means. The Members may also approve any action without a meeting, without prior written notice and without a vote, if consent or consents in writing, setting forth the action so taken, shall be signed by all of the Members.

(b) **Records.** Company shall keep written records of all actions taken by the Members.

(c) **Meetings.** Meetings of the Members may be called by the Co-Managers or by any Member. Meetings not held by electronic or telephonic means shall be held at Company's principal place of business or at such other place as may be designated by the Person(s) calling the meeting.

(d) **Notice.** No matter shall be voted upon at a meeting of Members unless at least seventy-two (72) hour notice of the meeting is given or such notice is waived by any Member who is entitled to vote and who has not received notice. A Member shall be deemed to have waived notice of any meeting that the Member attends or in which the Member participates unless at the beginning of the meeting the Member objects to the meeting because of lack of proper notice. If a meeting of the Members is called by a Member, the Co-Managers shall cause Company to deliver notice of the meeting no later than five (5) days following Company's receipt of a written notice from the Member that the Member intends to call a meeting and setting forth the place for such meeting.

(e) **Record Date.** For the purpose of determining the Members entitled to receive notice of any meeting of the Members, or the Members entitled to vote or take any other action, the Co-Managers may fix in advance a date as the record date. The record date shall not be more than ten (10) days before the date on which the particular action requiring such a determination of Members is to be taken. If no record date is so fixed by the Co-Managers, the record date shall be at the close of business on: (i) with respect to any meeting of Members, the day before the first notice is delivered to Members, and (ii) with respect to any action taken in writing without a meeting, the date the first Member signs the consent pursuant to which such action is taken.

(f) **Quorum.** At any meeting of the Members, Members holding sufficient Units to give consent to the action proposed to be taken at the meeting, represented in person or by proxy, shall constitute a quorum of Members for purposes of the meeting. If a quorum is not

present at any meeting, a majority of the Members present may adjourn the meeting from time to time without further notice. At any adjourned and reconvened meeting at which a quorum is present or represented, any business may be transacted that might have been transacted at the meeting as originally noticed.

(g) **Voting.** Each Member shall vote all of the Member's Units in the same manner as to any given matter submitted for a vote.

(h) **Proxies.** At all meetings of Members, a Member may vote by proxy executed in writing by the Member or the Member's duly authorized attorney-in-fact. Proxies shall be filed with the Co-Managers before or at the time of the meeting. No proxies shall be valid after six (6) months from the date of execution, unless expressly provided otherwise in the proxy.

6.7 **Indemnification of the Co-Managers and Members.** To the maximum extent permitted under Section 183.0403 of the Act, Company shall indemnify the Co-Managers and each Member and make advances for expenses, including reasonable attorney's fees, actually and reasonably incurred by them in connection with any claim relating to their actions or failures to act in such capacity, if the Co-Managers or affected Member in good faith reasonably believed such action to be in or not opposed to Company's best interests, except that no indemnification shall be made in respect of any claim as to which an action or failure to act shall have been adjudged to constitute wrongful taking or fraud, deceit or willful misconduct in the performance of a duty to Company. In addition, Company shall indemnify its employees and agents to the fullest extent permitted by law, provided that the indemnification in any given situation is approved by the Members.

Article 7 TRANSFER OF UNITS

7.1 General Restrictions on Transfers.

(a) **General.** No Units may be transferred unless the Transfer is either (i) expressly permitted under this Article 7, or (ii) approved by the Members, acting by unanimous consent.

(b) **Void Transfer.** Any Transfer, attempted Transfer, or purported Transfer in violation of this Agreement's terms and conditions shall be null and void.

(c) **Securities Laws Transfer Restrictions.** Subject to the other restrictions herein set forth, no interest in Company shall be transferred by any Transferor unless such Transfer is subject to an effective registration under, or exempt from the registration requirements of, the applicable state and federal securities laws.

7.2 **Permitted Transfers.** A Member may Transfer all or any portion of the Member's Units to a Permitted Transferee, provided the applicable provisions of this Section 7.2 are complied with before the Transfer becomes effective, at which time the Permitted Transferee will become a Member.

(a) **Signature.** The Permitted Transferee must sign a counterpart to this Agreement, agreeing for the benefit of the other Members to be bound by this Agreement to the same extent as if the Permitted Transferee had been an original party to the Agreement as a Member. The Spouse of the Permitted Transferee must sign a spousal consent and acknowledgment if requested by Company.

(b) **Approval.** Company must approve of the trustee, if the Transfer is to a trust, in writing before the Transfer.

(c) **Documents.** The Permitted Transferee must take all actions and execute all instruments required by Company in order for the Transfer to comply with any applicable federal or state laws and regulations relating to the Transfer of Units or with this Agreement.

7.3 Involuntary Transfer.

(a) **Involuntary Transferee.** An Involuntary Transfer to a Person other than a Permitted Transferee will be effective only after the applicable provisions of this Section 7.3 have been complied with. The creditor, receiver, trust or trustee, estate, beneficiary, or other Person to whom Units are transferred by Involuntary Transfer, or a Member that has undergone a Change of Control (the “Involuntary Transferee”), will have only the rights provided in this Section 7.3. As used herein, the term “Involuntary Transfer” means any Change of Control of a Member and/or any Transfer of Units by operation of law or in any proceeding, including a Transfer resulting from the dissociation of a Member, by or in which a Member would, but for the provisions of this Section 7.3, be involuntarily deprived of any interest in or to the Member’s Units, including, without limitation, (i) a Transfer on death or bankruptcy, (ii) any foreclosure of a security interest in the Units, (iii) any seizure under levy of attachment or execution, or (iv) any Transfer to a state or to a public office or agency pursuant to any statute pertaining to escheat, abandoned property, or forfeiture.

(b) **Notice to Company.** Upon the occurrence of an Involuntary Transfer, the Transferor and the Involuntary Transferee (or, in the case of a Change of Control, the Involuntary Transferee) shall each immediately deliver a written notice to Company describing the event giving rise to the Involuntary Transfer, the date on which the event occurred, the reason or reasons for the Involuntary Transfer, the name, address, and capacity of the Involuntary Transferee and the Units involved (a “Notice of Involuntary Transfer”). The Notice of Involuntary Transfer shall constitute the offer to sell the number of Units identified therein to the Member that is not the Transferor or Company, as applicable, for which the Purchase Price and the terms of payment shall be as set forth in the applicable provisions of Section 7.6. Upon receipt of a Notice of Involuntary Transfer, Company shall promptly provide the same to the Member that is not the Transferor.

(c) **Member’s Option to Purchase Units.** If any Units are subject to any Involuntary Transfer, the Member that is not the Transferor shall at all times have the immediate and continuing right and option for a period of one hundred eighty (180) days after such Member first receives the Notice of Involuntary Transfer to purchase such Units in accordance with Section 7.6 by giving written notice to that effect to the Transferor and Involuntary Transferee (or, in the case of a Change of Control, to the Involuntary Transferee). Failure to properly accept

the offer within the prescribed time period shall constitute a rejection of the offer. For the sake of clarity, Units held by a Member that has undergone a Change of Control shall be treated for purposes of this Agreement as Units subject to an Involuntary Transfer.

(d) **Company's Option to Purchase Units.** If any Units are subject to any Involuntary Transfer, and if the Member that is not the Transferor does not accept the offer set forth in Section 7.3(c), then Company shall at all times have the right and option, for a period beginning on the expiration of the offer set forth in Section 7.3(c) and continuing for one hundred eighty (180) days thereafter, to purchase such Units in accordance with Section 7.6 by giving written notice to that effect to the Transferor and Involuntary Transferee (or, in the case of a Change of Control, to the Involuntary Transferee). Failure to properly accept the offer within the prescribed time period shall constitute a rejection of the offer. For the sake of clarity, Units held by a Member that has undergone a Change of Control shall be treated for purposes of this Agreement as Units subject to an Involuntary Transfer.

(e) **Effect of Member's and Company's Rejection of Option.** If neither the Member that is not the Transferor nor Company accepts the offers pursuant to Section 7.3(c) or 7.3(d), or Member or Company, as applicable, fails through no fault of the Transferor or the Involuntary Transferee to close the Transfer within the applicable time period established therefor, the Involuntary Transfer shall become effective and the Involuntary Transferee shall be subject to the rights and restrictions set forth in this Agreement, including Section 7.3(f), and any subsequent Transfer by the Involuntary Transferee shall be subject to the provisions hereof.

(f) **Effect of Involuntary Transfer.** From the effective date of the Involuntary Transfer, the Involuntary Transferee (including, for the sake of clarity, a Member that has undergone a Change of Control) shall have the rights of an assignee of the Transferor's Units as set out in Section 183.0704(1)(b) of the Act. Unless and until the Involuntary Transferee is admitted as a member by the Members, acting by unanimous consent, the Units held by the Involuntary Transferee shall have no voting rights such that any determination of the unanimous consent of the Members shall be made by excluding the Units held by the Involuntary Transferee for all purposes.

7.4 **Right of Investor Member to Withdraw.**

(a) **Right to Withdraw.** Beginning on the *later of* (i) the day following the fifth (5th) anniversary of the date on which the last portion of the Facility is treated as "placed in service" for federal income tax purposes (giving effect to any applicable convention discussed in Section 168(d) of the Code) *or* (ii) the receipt by Investor of distributions from the Company in the amount discussed in the second sentence of Section 4.1(d), Investor shall have the right to tender Investor's Units to Company and to withdraw from Company (such day, the "Trigger Date"), and continuing for sixty (60) days thereafter. If Investor exercises this right, then (i) Company shall pay to Investor an amount equal to One Hundred Thousand Dollars (\$100,000), which amount shall be paid to Investor in immediately available funds on the date selected by Investor in the written notice discussed in Section 7.4(b), and (ii) in exchange for such payment, Investor shall, on the date selected by Investor in the written notice discussed in Section 7.4(b), Transfer to Company all of Investor's Units, free and clear of any and all liens, restrictions and encumbrances (other than any liens, restrictions and encumbrances imposed by

this Agreement), as evidenced by an assignment and withdrawal document reasonably acceptable to Investor and Company.

(b) **Method for Exercising Right to Withdraw.** If Investor elects to exercise Investor's right to tender Investor's Units to Company and to withdraw from Company, Investor shall provide written notice to Company no sooner than ninety (90) and no later than thirty (30) days prior to the Trigger Date. In such notice, Investor shall set forth the date for such tendering of Investor's Units and withdrawal from Company, which date shall be within the sixty (60) day window set forth in Section 7.4(a).

7.5 **Right to Purchase Investor's Units.**

(a) **Right to Purchase.** Beginning on the first (1st) anniversary of the Trigger Date, and continuing for sixty (60) days thereafter, the Tribe shall have the right to purchase Investor's Units for their then-Fair Market Value. The Tribe may assign this right to purchase to any Permitted Transferee of the Tribe. If the Tribe exercises this right, or if the Tribe assigns this right to any Permitted Transferee and such Permitted Transferee exercises this right, then (i) the Tribe or its Permitted Transferee, as applicable, shall pay such Fair Market Value to Investor on the date selected by the Tribe or its Permitted Transferee in the written notice discussed in Section 7.5(b), and (ii) in exchange for such payment, Investor shall, on the date selected by the Tribe or its Permitted Transferee, as applicable, in the written notice discussed in Section 7.5(b), Transfer to the Tribe or its Permitted Transferee, as applicable, all of Investor's Units, free and clear of any and all liens, restrictions and encumbrances (other than any liens, restrictions and encumbrances imposed by this Agreement), as evidenced by an assignment and withdrawal document reasonably acceptable to Investor and the Tribe or its Permitted Transferee, as applicable.

(b) **Method for Exercising Right to Purchase.** If the Tribe or its Permitted Transferee elects to exercise its right to purchase Investor's Units, the Tribe or its Permitted Transferee, as applicable, shall provide written notice to Investor and Company no sooner than ninety (90) and no later than thirty (30) days prior to the twelve (12) month anniversary of the Trigger Date. In such notice, the Tribe or its Permitted Transferee, as applicable, shall set forth the date for the closing of the purchase of Investor's Units, which date shall be within the sixty (60) day window set forth in Section 7.5(a); provided, however, that such date may be extended beyond such 60-day window if necessary for the determination of the Fair Market Value of the Units. If the date for the closing of the purchase of Investor's Units is so extended, the date for such closing shall be thirty (30) days after such Fair Market Value is finally determined. Notwithstanding anything to the contrary in this Section 7.5, the Tribe or its Permitted Transferee, as applicable, shall be entitled, within ten (10) days of the final determination of the Fair Market Value of Investor's Units, to rescind its election to purchase such Units by delivery of written notice of such rescission to Investor and Company.

7.6 **Purchase Price and Payment Terms; Closing.**

(a) **Purchase Price.** The Purchase Price for Units transferred pursuant to Section 7.3(c) or 7.3(d) shall be an amount equal to the Fair Market Value for such Units (or interest therein) on the date of the Notice of Involuntary Transfer. The purchasing party shall be

entitled, within ten (10) days of the determination of Fair Market Value, to rescind its election to purchase the Units by delivery of notice of such rescission to the selling Member, Member's estate, Spouse or Spouse's estate, as applicable.

(b) Payment Terms for Purchases Under Sections 7.3(c), 7.3(d) and 7.5(a).

The Purchase Price for Units Transferred pursuant to Section 7.3(c), 7.3(d) or 7.5(a) shall be paid by Company or the purchasing Member as follows:

(i) ten percent (10%) of the Purchase Price shall be paid by the purchasing party at closing in cash, by wire transfer or certified check, and

(ii) the remaining ninety percent (90%) of the Purchase Price shall be payable pursuant to one or more promissory notes executed by the purchasing party. Such promissory notes shall bear interest at a rate equal to the lowest mid-term applicable federal rate, with annual compounding, in effect in the month of the closing for such purchase of Units or in either of the preceding two (2) months, and shall be payable in equal annual installments over a period of nine (9) years (prepayable at any time without penalty).

(c) Closing. The closing for any purchase of the Units pursuant to Section 7.3(c) or 7.3(d) or 7.5(a) shall be within sixty (60) days after the Fair Market Value is determined.

7.7 Issuances and Transfers of Interests in Investor. Investor agrees that, beginning on the Effective Date and continuing so long as Investor holds any Units, in no event will Investor issue any debt or equity interest in Investor to any Person who or that does not hold a debt or equity interest in Investor as of the Effective Date, nor shall Investor permit, honor or recognize any sale, assignment, gift or other transfer of any such debt or equity interest to any such Person, in each case without the consent of the Co-Managers, subject to the rights of the Members set forth in Section 6.1(c)(vi).

7.8 Specific Performance. The parties declare that it may be impossible to measure in money the damages that will accrue to any party by reason of a failure to perform any of the obligations under this Article 7, and the parties agree that this Article 7 shall be specifically enforced. Therefore, if any Member or Transferee institutes any action or proceeding to enforce the provisions of this Article 7, any Person, including Company, against whom the action or proceeding is brought waives the claim or defense that the party has or may have an adequate remedy at law. The Person shall not urge in any such action or proceeding the claim or defense that a remedy at law exists, and the Person shall consent to the remedy of specific performance of this Agreement.

Article 8

DISSOCIATION, DISSOLUTION AND LIQUIDATION

8.1 Events Causing Dissolution. Company shall be dissolved only upon the happening of a Dissolution Event.

8.2 Termination. Dissolution of Company shall be effective on the date on which the Dissolution Event occurs but Company shall not terminate until Articles of Dissolution have

been duly filed under the Act, the affairs of Company have been wound up, and the assets of Company have been distributed as provided in Section 8.3. Notwithstanding the dissolution of Company, prior to the liquidation and termination of Company, the business of Company and the affairs of the Members, as such, shall continue to be governed by this Agreement.

8.3 **Liquidation.** Following the occurrence of a Dissolution Event, the Co-Managers or, if the Co-Managers are unwilling, a Person appointed by the Members (who may, but need not, be a Member), shall serve as the liquidator of Company (the "Liquidator"). The Liquidator shall have all authority that is necessary or appropriate to the winding up and liquidation of Company, and the Liquidator shall proceed with the winding up and liquidation of Company by applying and distributing Company's assets pursuant to Section 4.2. A reasonable time shall be allowed for the orderly liquidation of the assets of Company and the discharge of liabilities to creditors so as to enable the Liquidator to minimize any losses resulting from the liquidation.

8.4 **Filing and Notice.** The Liquidator shall promptly, upon appointment, execute and file on behalf of Company all documents necessary to effect such dissolution.

8.5 **Distributions In Kind.** If any assets of Company are to be distributed in kind, such assets shall be distributed on the basis of their Asset Value, and any Member entitled to an interest in such assets shall receive such interest therein as a tenant-in-common with all other Members so entitled.

8.6 **Limitation on Liability.** Each Member shall look solely to Company's assets for all distributions from Company and the return of the Member's Capital Contribution to Company and shall have no recourse (upon dissolution or otherwise) against any Liquidator, Manager or Member, or any of their respective affiliates.

Article 9 BOOKS AND RECORDS, INSURANCE

9.1 **Books and Records.** Company's books and records shall be maintained in accordance with the Terms and Conditions. To the extent permitted by the Terms and Conditions, such books and records shall be maintained at Company's principal office or at any other place designated by the Co-Managers and shall be available for inspection and copying by any Member or any Member's duly authorized representative(s), at the Member's own expense, during normal business hours.

9.2 **Company Funds.** Company's funds may be deposited in such banking institutions as the Co-Managers determine, and withdrawals shall be made only in the regular course of Company's business on such signature or signatures as the Co-Managers determine. All deposits and other funds not needed in the operation of the business may be invested in certificates of deposit, short-term money market instruments, money market funds, government securities, or similar investments as the Co-Managers determine.

9.3 **Availability of Information.** Company shall keep at its principal office and place of business, and each Member shall have the right to inspect and copy, all of the following:

(i) a current list of the full name and last-known business address of each Member or former Member set forth in alphabetical order, the date on which each Member or former Member became a Member, and, if applicable, the date on which any former Member ceased to be a Member; (ii) a copy of the Articles of Organization and all amendments to the Articles; (iii) copies of Company's federal, state, and local income tax returns and financial statements, if any, for its seven most recent years; and (iv) copies of this Agreement and any effective written amendments to this Agreement.

9.4 **Tax Returns.** The Co-Managers shall cause to be prepared and shall file on or before the due date (or any extension of the due date) any federal, state, or local tax returns required to be filed by Company. The Co-Managers shall cause Company to pay any taxes payable by Company out of Company funds. As soon as reasonably practicable following the end of each Fiscal Year, the Co-Managers shall cause Company to send to each Person who was a Member at any time during the Fiscal Year then ended such tax information as is necessary or appropriate for the preparation by the Members of their individual federal and state income tax returns.

9.5 **Tax Matters Partner.** Subject to the terms hereof, Investor shall serve as the Tax Matters Partner pursuant to Section 6231(a)(7) of the Code, and in such capacity is hereby authorized and empowered to act and represent Company and each of the Members with respect to Company before the Internal Revenue Service in any audit or examination of any Company tax return and before any court selected by the Tax Matters Partner for judicial review of any adjustments assessed by the Internal Revenue Service. By the execution of this Agreement, the Members hereby consent and acknowledge that Investor shall be the Tax Matters Partner, and the Members agree to be bound by, and agree not to take any action inconsistent with, the actions or inaction of said Tax Matters Partner including, but not limited to, the extension of any statute of limitations, the making of any settlement or the taking of any other action or position that the Tax Matters Partner deems proper under the circumstances. The Tax Matters Partner shall have the authority to take all actions and incur all costs necessary or desirable in its sole discretion to accomplish the matters set forth in this Section 9.5. If Investor ceases to be a Member, the remaining Members shall elect another Member to be the Tax Matters Partner by unanimous consent. The Tax Matters Partner shall be indemnified and held harmless by Company from and against any and all claims, demands, liabilities, costs (including, without limitation, reasonable attorneys' fees), damages and causes of action of any nature whatsoever arising out of or incidental to the Tax Matters Partner's taking of any action authorized under, or within the scope of, this Agreement; provided, however, that the Tax Matters Partner shall not be entitled to indemnification where the claim at issue arose out of:

(a) a matter entirely unrelated to the Tax Matters Partner's acting under the provisions of this Agreement; or

(b) the proven willful misconduct of the Tax Matters Partner.

Article 10
MISCELLANEOUS

10.1 **Amendments to Agreement.** Except as provided in Section 2.4 with respect to the modification of Exhibit B and Section 3.2 with respect to the computation of Capital Accounts, no amendment or modification of this Agreement shall be valid unless made in writing and approved by the unanimous consent of the Members.

10.2 **Integration.** This Agreement and the exhibits attached hereto supersede all prior oral or written agreements or understandings between the parties to this Agreement regarding the subject matter of this Agreement, and are the complete agreement of the Members with respect thereto.

10.3 **Binding Provisions.** The agreements and covenants contained in this Agreement inure solely to the benefit of the parties to this Agreement. This Agreement shall be binding on the heirs, executors, administrators, personal representatives, successors, and permitted assigns of the respective parties to this Agreement.

10.4 **Applicable Law.** This Agreement shall be interpreted and construed in accordance with the laws of the state of Wisconsin, without giving effect to the principles of conflicts of laws.

10.5 **Severability of Provisions.** Each provision of this Agreement shall be considered separable, and if for any reason any provision or provisions of this Agreement are determined to be invalid or contrary to any existing or future law, the invalidity shall not affect or impair the operation of those portions of this Agreement that are valid, unless it is clearly unreasonable to do so, or if doing so would substantially change the terms of this Agreement to impose new and/or different obligations, economic or legal relationships between the parties or rights of the parties.

10.6 **Headings.** The headings of this Agreement are inserted for convenience only and shall not limit or otherwise affect any of the terms or provisions hereof.

10.7 **Notice.** Any notice required or permitted to be given pursuant to this Agreement shall be valid only if in writing and shall be deemed to have been duly given (i) when personally delivered, (ii) when transmitted by fax if confirmation of receipt is printed out on the sending fax machine, (iii) if transmitted by e-mail, when receipt is confirmed by the recipient of such notice, or (iv) three (3) days after being mailed by certified mail, postage prepaid, addressed to the Person receiving notice at the address contained in Company's records, unless that Person otherwise notifies Company in accordance with this Section 10.7 of a change of address.

10.8 **Counterparts.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute the same instrument.

10.9 **Facsimile and PDF Signatures.** Any signature to this Agreement or any exhibit hereto or document contemplated hereby transmitted electronically by facsimile or .pdf

software shall be deemed a true and legally binding signature for all purposes and shall for all purposes be considered an original signature.

10.10 Mutual Drafting. This Agreement reflects a negotiated compromise between the Members. No Member shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision hereof to be construed against the drafter of this Agreement.

10.11 No Waiver of Sovereign Immunity. Nothing in this Agreement shall be deemed to be a waiver of sovereign immunity of the Tribe.

10.12 Dispute Resolution. The parties shall attempt to settle every dispute arising out of or in connection with this Agreement (each a "Dispute"), by following the dispute resolution process set forth below. First the Co-Managers shall meet and, working in good faith, attempt to resolve the Dispute. If the Co-Managers are unable to resolve the dispute, then either party shall have the right to seek resolution of a Dispute by providing written notice of the Dispute to the Matt Neumann of Investor and the James Bittorf of Tribe (collectively, the "Dispute Representatives"). Within ten (10) business days of such notice, the Dispute Representatives shall meet, review such relevant information as they may determine and endeavor in good faith to reach agreement. They shall render their decision within three (3) business days of such meeting (or such other timeline to which they mutually agree). If the Dispute Representatives shall fail to reach agreement within sixty (60) business days of such meeting, then they shall be free to pursue any right or remedy available under applicable law or in equity.

[Signature page follows.]

The undersigned Members have executed this Agreement as of the Effective Date.

SOLAR INVESTMENTS WI, LLC

ONEIDA NATION

By: _____
Matt Neumann, Member

By: _____

Name: _____

Title: _____

EXHIBIT A
DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings set forth below and any derivatives of the terms shall have correlative meanings:

Act means the Wisconsin Limited Liability Company Law, Chapter 183 of the Wisconsin Statutes.

Agreement shall have the meaning set forth in the introductory paragraph hereof.

Asset Value means as of any date, with respect to any asset, the asset's adjusted basis for federal income tax purposes as of such date, except as follows:

- (1) The initial Asset Value of any asset contributed by a Member to Company shall be the gross fair market value of the asset, as reasonably determined by the Co-Managers, acting with the unanimous consent of the Members.
- (2) The Asset Values of all assets of Company shall be adjusted to equal their respective gross fair market values, as reasonably determined by the Co-Managers, as of the following times: (a) the acquisition of additional Units by any new or existing Member in exchange for more than a *de minimis* Capital Contribution; (b) the distribution by Company to a Member of more than a *de minimis* amount of Company's property as consideration for Units if the Co-Managers reasonably determine that the adjustment is necessary or appropriate to reflect the relative economic interests of the Members; (c) the liquidation of Company within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations; and (d) in connection with the grant of Units representing an interest in Company (other than a *de minimis* interest) as consideration for services to or for the benefit of Company by an existing Member acting in its capacity as a Member, or by a new Member acting in its capacity as a Member or in anticipation of being a Member.
- (3) The Asset Value of any Company asset distributed to any Member shall be the gross fair market value of the asset on the date of distribution as reasonably determined by the Co-Managers, acting with the unanimous consent of the Members.
- (4) The Asset Value of Company's assets shall be increased (or decreased) to reflect any adjustments to the adjusted bases of the assets pursuant to Section 734(b) or Section 743(b) of the Code, but only to the extent required by Section 1.704-1(b)(2)(iv)(m) of the Treasury Regulations; provided, however, that Asset Values shall not be adjusted pursuant to this clause (4) to the extent the Co-Managers reasonably determine that an adjustment pursuant to clause (2), above, is necessary or appropriate in connection with a transaction that otherwise would result in an adjustment pursuant to this clause (4).

- (5) If the Asset Value of an asset has been determined or adjusted pursuant to clause (1), (2), or (4), above, the Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to that asset for purposes of computing Profits and Losses.

Award shall have the meaning set forth in Section 1.5.

Capital Account means the account established and maintained for each Member pursuant to Article 3.

Capital Commitment shall have the meaning set forth in Section 2.2(a).

Capital Contribution means the excess of the Asset Value of the cash, services, property or promissory notes or other written obligations contributed to Company by any Member with respect to the Member's Units over the sum of any debt of the Member assumed by Company in connection with such contribution and any debt secured by the property so contributed.

Capital Transaction means the financing, refinancing, sale, exchange, or other disposition of all or substantially all of the Facility, including, without limitation, casualty or condemnation or other similar transaction which, in accordance with generally accepted accounting principles, is treated as a capital transaction, or the recovery of any damages arising from the construction of the Facility or the failure of the Facility to operate in accordance with its specifications.

Cash Available for Distribution means Cash Flow less Reserves.

Cash Flow means cash funds provided from the various assets of Company, or, with respect to property or investments held directly by Company, from operations, including the release of Reserves, without deduction for Depreciation or similar non-cash allowances, but after deducting cash funds used to pay for all operating expenses, contractually-obligated capital repairs to, replacements and maintenance of, or removal of, any property or investments held directly by Company, debt payments, improvements, replacements or other cash outlays actually incurred; provided, however, that Cash Flow shall not include any Proceeds from a Capital Transaction. For the sake of clarity, Cash Flow shall be determined *without* deducting cash funds used to pay Tax Distributions.

Change of Control means a sale of substantially all of the assets of a Member, or any merger, reorganization, consolidation or transfer or sale of the voting equity of such Member whereby the Persons collectively directly or indirectly owning more than 50% of the equity of such Member immediately prior to such event no longer directly or indirectly own at least 50% of the Member's equity after such event. For purposes of clarification, the dissolution or liquidation of a Member will not be treated for purposes of this Agreement as a Change of Control, but will instead be treated as a Transfer that is permitted pursuant to Section 7.2, if the Transfer of the dissolving or liquidating Member's Units would be permitted under Section 7.2.

Code means the Internal Revenue Code of 1986, as amended (or any corresponding provisions of succeeding law).

Co-Managers has the meaning set forth in Section 6.2(a) of this Agreement.

Company shall have the meaning set forth in the introductory paragraph of this Agreement.

Construction Capital Call shall have the meaning set forth in Section 2.3(a).

Defaulting Member shall have the meaning set forth in Section 2.3(d).

Default Interest shall have the meaning set forth in Section 2.3(d).

Default Loan shall have the meaning set forth in Section 2.3(d).

Depreciation means, for each Fiscal Period of Company, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset of Company for such Fiscal Period under the Code, except that if the Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Fiscal Period, Depreciation shall be an amount that bears the same ratio to such beginning Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Period bears to such beginning adjusted tax basis; provided, however, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Fiscal Period is zero, Depreciation shall be determined with reference to such beginning Asset Value using any reasonable method consistent with the purpose and intent hereof.

Dissolution Event means the approval of the dissolution of Company by the Members, acting by unanimous consent, or the entry of a decree of judicial dissolution pursuant to Section 183.0902 of the Act.

DOE Grant shall have the meaning set forth in Section 2.3(a).

Effective Date shall have the meaning set forth in the introductory paragraph of this Agreement.

Facility shall have the meaning set forth in Section 1.3.

Fair Market Value means the fair market value of the Units being sold on an installed, in-place, and operational basis as of the date of sale. Company or the selling Member (or Spouse or Spouse's estate) and the purchaser(s) of the Units shall attempt to mutually agree upon the Fair Market Value within thirty (30) days after the occurrence of any event requiring the determination of Fair Market Value. If the parties cannot agree on the Fair Market Value, then the Fair Market Value shall be the price, expressed in terms of cash equivalents, at which the Units being sold would change hands between a hypothetical willing and able buyer and a hypothetical willing and able seller, acting at arm's length in

an open and unrestricted market, when neither is under compulsion to buy or sell and when both have reasonable knowledge of the relevant facts, as determined by an appraiser taking into account any applicable customary discounts and the Capital Account balance of the Units. The Fair Market Value shall be determined as the value per Unit to a buyer making a passive investment in Company and shall exclude any synergies that may accrue to a strategic buyer. If the Units being appraised are subject to an Involuntary Transfer, then the appraiser shall be selected by Company; in all other events, the appraiser shall be selected by mutual agreement of the purchasing and selling parties, and if the parties cannot agree on the identity of an appraiser within sixty (60) days after the occurrence of any event requiring the determination of Fair Market Value (for the sake of clarity, with the exclusion of any Involuntary Transfer), Fair Market Value shall be the average of two appraised values, one obtained from an appraiser selected by the purchasing party or parties, and the other obtained from an appraiser selected by the selling party or parties. The appraiser or appraisers as the case may be shall determine the Fair Market Value within ninety (90) days of being selected. In the event that a single appraiser determines the Fair Market Value of any Units, Company shall bear the cost of the appraisal, except in the case of a transfer of Units subject to an Involuntary Transfer, in which case the cost shall be split between Company and the Transferor. In the event two appraisals are obtained, each party shall bear the cost of its own appraiser. For purposes of the Tribe exercising its right to purchase Investor's Units under Section 7.5 of this Agreement, Fair Market Value shall take into consideration the extent to which Investor has already received distributions under this Agreement and the extent to which Investor, in the event the Company sold its assets at Fair Market Value, would be limited to sharing in the proceeds of such liquidation only to the extent that value remained after the Tribe had received the return of the amounts in its Capital Account.

Fiscal Period means a portion of a Fiscal Year.

Fiscal Year shall be a calendar year, provided that in the year of the formation, sale, or liquidation of Company, a Fiscal Year may be less than a 12-month period.

Future Capital Call shall have the meaning set forth in Section 2.3(c).

Investor shall have the meaning set forth in Section 2.2(a).

Involuntary Transfer and **Involuntary Transferee** shall have the meanings set forth in Section 7.3(a).

Liquidator shall have the meaning set forth in Section 8.3.

Manager means a Person appointed as a manager by Investor or the Tribe pursuant to Section 6.2(a).

Member means any Person listed on Exhibit B until such time as the Person is no longer a Member in accordance with this Agreement and any additional Person who is admitted as a Member to Company in accordance with this Agreement.

Non-Defaulting Member shall have the meaning set forth in Section 2.3(d).

Notice of Involuntary Transfer shall have the meaning set forth in Section 7.3(b).

Permitted Transferee means: (1) any Person controlled by, under common control with, or controlling such Member, with “control” for this purpose meaning the possession of the power to direct or cause the direction of the management and policies of such Person whether through the ownership of voting securities, by contract or otherwise; (2) another Member; (3) a trust created for the benefit of a Member and/or any Person(s) identified in subsections (1)-(2), above; or (4) Company.

Person means an individual, a general partnership, a limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal or commercial entity.

Prime Rate shall have the meaning set forth in Section 2.3(d).

Proceeds from a Capital Transaction means net proceeds received by Company from a Capital Transaction, after reduction for all expenses of the Capital Transaction and any Reserves set aside by the Co-Managers for future expenses.

Profits and Losses mean, for each Fiscal Period, an amount equal to Company’s taxable income and loss for the Fiscal Period, determined in accordance with Section 703(a) of the Code (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code shall be included in taxable income and loss), with the following adjustments:

- (1) any income of Company that is exempt from federal income tax and not otherwise taken into account in computing Profits and Losses pursuant to this definition shall be added to the taxable income or loss;
- (2) any expenditures of Company described in Section 705(a)(2)(B) of the Code or treated as Section 705(a)(2)(B) expenditures described in Section 1.704-1(b)(2)(iv)(i) of the Treasury Regulations, and not otherwise taken into account in computing Profits and Losses pursuant to this definition, shall be subtracted from the taxable income or loss;
- (3) in the event the Asset Value of any Company asset is adjusted pursuant to the definition of Asset Value, the amount of the adjustment shall be taken into account as gain or loss from the disposition of the asset for purposes of computing Profits and Losses;

- (4) gain or loss resulting from any disposition of any property by Company with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Asset Value of the property disposed of, notwithstanding that the property's adjusted tax basis differs from its Asset Value;
- (5) in lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing the taxable income or loss, there shall be taken into account Depreciation for the Fiscal Year or other period; and
- (6) to the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Section 734(b) or Section 743(b) of the Code is required pursuant to Section 1.704-1(b)(2)(iv)(m) of the Treasury Regulations to be taken into account in determining Capital Accounts as a result of a distribution other than in complete liquidation of a Member's Units, the amount of the adjustment shall be treated as an item of gain (if the adjustment increases the asset's basis) or loss (if the adjustment decreases the asset's basis) from the disposition of the asset and shall be taken into account for purposes of computing Profits and Losses.

Notwithstanding any other provision of this definition, items that are specially allocated pursuant to Sections 5.2 and 5.4 shall not be taken into account in computing Profits and Losses.

Purchase Price means the price determined under Section 7.6(a).

Recipient shall have the meaning set forth in Section 1.5.

Regulatory Allocations shall have the meaning set forth in Section 5.2.

Reserves means, with respect to any Fiscal Period, any funds set aside or amounts allocated during or with respect to such period in amounts deemed sufficient by the Co-Managers for repairs, replacements, contingencies, or other outlays, known or unknown, contingent or otherwise.

Solar PV Contract for Purchase shall have the meaning set forth in Section 6.1(b).

Spouse means the spouse of a Member or a Transferee.

Tax Distribution means any amount distributed to a Member pursuant to Section 4.1(a) and 4.1(b), or deemed distributed to a Member pursuant to Section 4.1(c).

Tax Distribution Dates means, except as provided in Section 4.1(b), January 15, April 15, June 15, and September 15 of each Fiscal Year.

Tax Matters Partner shall have the meaning assigned in the Code.

Tax Rate means the *sum of* (i) the highest combined marginal income tax rate for federal and Wisconsin purposes for the Fiscal Period at issue applicable to individuals, assuming in determining the tax rate that state taxes are deductible for federal purposes, subject to the

maximum applicability of the phaseout of itemized deductions contained in Section 68 of the Code, *plus* (ii) the federal Medicare contribution tax rate in effect under Section 1411 of the Code. In determining the Tax Rate, a separate Tax Rate shall be determined for ordinary income and long-term capital gain, respectively, if Company has both types of income.

Terms and Conditions shall have the meaning set forth in Section 2.3(a).

Transfer means to sell, assign, give, bequeath, pledge, or otherwise encumber, divest, dispose of, or transfer ownership or control of all of, any part of, or any interest in a Unit to any Person, whether voluntarily or by operation of law, whether inter vivos or upon death.

Transferee means any Person who proposes to acquire or acquires Units pursuant to the provisions of this Agreement.

Transferor means any Person who proposes to Transfer or Transfers any or all of the Person's Units pursuant to the provisions of this Agreement.

Treasury Regulations or **Regulations** means the regulations adopted from time to time by the Department of the Treasury under the Code, and any references to "partners" or "partnership" in the Regulations shall refer, as appropriate, to Members and Company, respectively.

Tribe shall have the meaning set forth in Section 2.2(a).

Trigger Date shall have the meaning set forth in Section 7.4(a).

Unit means an equity interest in Company having the rights and obligations ascribed to it in this Agreement.

EXHIBIT B
UNITS; CAPITAL COMMITMENTS

Member Name	Units	Capital Commitments
Solar Investments WI, LLC	990	\$1,040,000
Oneida Nation	10	\$960,000
Totals:	1,000	\$2,000,000

EXHIBIT C
DOE GRANT TERMS AND CONDITIONS

See attached.

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Approve revision of Standard Operating Procedure titled: Hiring and Negotiating Oneida Business Committee (OBC) Political Appointees

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Danelle Wilson, Executive Assitant
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Purpose: To approve the revised version of SOP: Hiring Political Appointees

Background:

On May 10, 2017 a SOP titled, Hiring and Negotiating Oneida Business Committee (OBC) Political Appointees was approved by the OBC, with some changes.

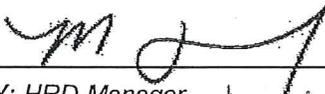
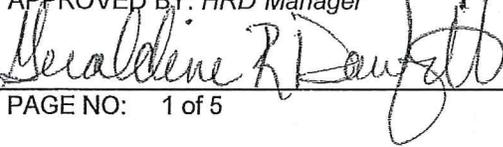
One of the changes was to remove section 3.3 (see ~~strikeout~~ version): The Tribal Chair's Office is eligible for two (2) full-time positions with the option of the Tribal Chair hiring two (2) part-time (0 to 20 hours a week) employees to equal one full-time position.

Feedback from the OBC after this SOP was approved on May 10, 2017 was to to add section 3.3 back into the SOP. The additional feedback included redefining the scope of work for the part-time positions.

Action Requested:

To approve the addition of section 3.3 back into the SOP titled, Hiring and Negotiating Oneida Business Committee (OBC) Political Appointees.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidation.org

 ONEIDA ONEIDA NATION STANDARD OPERATING PROCEDURE	TITLE: Hiring and Negotiating Oneida Business Committee (OBC) Political Appointments	ORIGINATION DATE: <i>July 2006</i> REVISION DATE: <i>July 18, 2017</i> EFFECTIVE DATE: <i>After Last Signature</i>
DIVISION: <i>Non-Divisional</i>	APPROVED BY: <i>OBC by motion</i>	DATE: <i>5/10/17</i>
DEPARTMENT: <i>Oneida Business Committee</i>	COMPLIANCE REVIEW BY: <i>EEO Director</i> 	DATE: <i>July 18, 2017</i>
AUTHOR: <i>Paula King-Dessart/ Jessica Wallenfang.</i>	APPROVED BY: <i>HRD Manager</i> 	DATE: <i>7/18/17</i>
EEO Reference #: 70	PAGE NO: 1 of 5	

1.0 PURPOSE

- 1.1 To set a standard for the hiring process of politically-appointed positions by an Oneida Business Committee Member.

2.0 DEFINITIONS

- 2.1 **HR Representative:** HRD employee responsible for job description development, posting and hiring processes.
- 2.2 **Political Appointment:** The process by which a person is appointed or designated for an office or position by an elected official.
- 2.3 **Job Descriptions:** A document defining duties and responsibilities for a position.
- 2.4 **OBC Member:** The person responsible or designated to directly oversee the work and performance of an employee. There may be more than one OBC Member in some cases.

3.0 WORK STANDARDS

- 3.1 Politically-appointed positions are hired to support elected officials during his or her term in office.
- 3.1.1 When the elected official's term ends, the political appointment's term will end as well.

Hiring/ Posting Process

- 3.2 Each OBC Member is authorized to hire one (1) full-time political appointee.
- 3.3 Hiring additional political appointees will require approval by OBC action.
 - 3.3.1 All created and/or revised political appointed job descriptions must be approved by the OBC and documented through OBC minutes.
- 3.4 OBC Members have four (4) options to hire a political appointee:
 - 3.4.1 Choose a qualified individual;
 - 3.4.2 Choose qualified applicant from a pool of OBC approved applications on file at HRD;
 - 3.4.3 Use the Nation's posting process by contacting the HR Representative; or
 - 3.4.4 Choose not to hire a political appointee.
- 3.5 HRD will facilitate the hiring process to include testing, background checks and scheduling for orientation.

Salary and Wages

- 3.6 OBC Members must work with the OBC Office Administrator to negotiate all salary or wage adjustments to ensure there are adequate funds within the OBC's budget.
- 3.7 Political Appointees must meet the qualifications and requirements of the appropriate job description to negotiate wages.
 - 3.7.1 If an applicant does not meet the qualifications and requirements of the job, he or she cannot negotiate wages and will be appointed at the minimum starting wage for the desired position.
 - 3.7.1.1 An applicant's failure to pass the pre-employment drug and alcohol test and/or background check shall automatically disqualify the applicant.
 - 3.7.2 Political Appointees are eligible for compensation increases, such as; salary or wage adjustments and bonuses.
 - 3.7.2.1 Salary or wage adjustments are permissible by an approved budget with the budget specific to the Political Appointee.
 - 3.7.3 Bonuses are permissible by an approved budget and standard operating procedure.

Transfers/Reassignments

- 3.8 Political Appointees are eligible for transfers, promotions and job reassignments after one year of continuous service as a political appointee for the OBC.
 - 3.8.1 Status changes will be processed in the same manner as regular status employees.

4 PROCEDURES

Selecting a Political Appointment - No Posting

OBC Member

- 4.1 Submit request to post or appoint position in writing to the OBC Office Administrator.
- 4.2 Discuss wage negotiation with OBC Office Administrator and HR Representative.
- 4.3 Determine if the applicant or appointee meets the qualifications and requirements of education and experience for the selected job description.
- 4.4 May consider utilizing the Table of Equivalencies during this process.

OBC Office Administrator

- 4.5 Send applicant's or appointee's information to the HR Representative to process.
- 4.6 Gain OBC support regarding the flexibility to budget funds to accommodate wage offers.
- 4.7 Work with OBC Member to negotiate wage and starting date.
 - 4.7.1 Be aware of all Political Appointee's wage offers to ensure fairness and equity.

HRD Representative

- 4.8 Perform all required testing, checks, and paperwork. This includes, but is not limited to:
 - 4.8.1 Skills Testing
 - 4.8.2 Background Check
 - 4.8.3 Driver's License
 - 4.8.4 Pre-Employment Drug Testing
 - 4.8.5 New Hire paperwork
- 4.9 Notify the OBC Office Administrator and OBC Member whether the applicant meets the qualifications and requirements of the position.
- 4.10 Work with the OBC Office Administrator and OBC Member in offering employment.
- 4.11 If applicant does not meet all requirements, HRD Representative and OBC Member may select a different applicant or hire at the minimum starting wage.
- 4.12 Notify applicant of approved wage and starting date.

Selecting a Political Appointment - By Posting

OBC Office Administrator

- 4.13** Complete and approve the *Request to Post Form* and send to HR Representative.
- 4.14** Assist the OBC Member with the hiring process upon request. This may include:
 - 4.14.1** Develop and/or prepare interview questions.
 - 4.14.2** Attend Screening.
 - 4.14.3** Attend interviews.
 - 4.14.4** Choose an applicant.
 - 4.14.5** Decide if second interviews are necessary.

HR Representative

- 4.15** Schedule and attend a meeting with the OBC Member and OBC Office Administrator to review *Request to Post Form* and decide number of days for posting.
- 4.16** Post the job description for seven (7) calendar days.
- 4.17** Complete all applicable verifications and testing as the applications are received.
- 4.18** Notify the OBC Office Administrator of any applicants who have applied within (2) two days after the position has closed.
- 4.19** Complete the *Employment Screening Form* from the qualifications and requirements as listed on the job description.
- 4.20** Ask the OBC Member if the *Table of Equivalencies* will be utilized.
 - 4.20.1** If yes, add the criteria to the appropriate form.
- 4.21** Determine if applicants meet the qualifications and requirements.
- 4.22** Schedule and facilitate *Screening Process*.
- 4.23** Develop or review existing interview questions.
- 4.24** Schedule and confirm interview date and time with applicants, OBC Member, and OBC Office Administrator.
- 4.25** Conduct interviews.
- 4.26** OBC Member, second interviews may be held.

OBC Member

- 4.27** Coordinate the negotiations with the OBC Office Administrator to ensure proper documents, procedures, and options are clear and the available funds are within the budget guidelines.
 - 4.27.1** When agreeing upon negotiations, consider other political appointment wages to ensure wage equity.
- 4.28** The OBC Member will send an e-mail to the HR Representative or the OBC Office Administrator about the wage negotiations.

HR Representative

- 4.29** Contact the selected applicant and offer or negotiate a wage or salary which is conditional based upon meeting the requirements of the job.
- 4.29.1** If applicant declines, notify the OBC Member.
- 4.29.2** Allow OBC Member to choose another applicant.
- 4.30** If applicant accepts, contact the OBC Member regarding the applicant's acceptance of the position with or without conditions and a start date.
- 4.31** Schedule and notify Political Appointee of mandatory New Employee Orientation dates.
- 4.32** Forward all new hire paperwork to the Human Resource Information Systems Department for processing.

5.0 REFERENCES

- 5.1** Request to Post Form (*HRD*)
- 5.2** Employment Screening Form (*HRD*)
- 5.3** Table of Equivalencies (*HRD*)

Oneida Nation Standard Operating Procedure	TITLE: Hiring and Negotiating Political Appointments	ORIGINATION DATE: REVISION DATE: April 27, 2017 EFFECTIVE DATE:
DIVISION: Non-Divisional	APPROVED BY: <i>OBC</i>	DATE:
DEPARTMENT: Oneida Business Committee	APPROVED BY: <i>OBC</i>	DATE:
AUTHOR: OBC and HRD	APPROVED BY: <i>OBC Office Manager</i>	DATE:
PAGE NO: 1 of 6	APPROVED BY: <i>HRD</i>	DATE:

1.0 PURPOSE

To define the hiring process for politically-appointed positions by an Oneida Business Committee member.

2.0 DEFINITIONS

- 2.1 **GTC** - General Tribal Council
- 2.2 **HRD** - Human Resource Department
- 2.3 **HR Representative** - An employee of HRD
- 2.4 **Political Appointment** - The type of employment position in which an individual is selected by an OBC member to assist with public governmental office duties during their term in office.
- 2.5 **Job Descriptions:** A document that defines duties and responsibilities for the OBC Legislative Assistants.
- 2.6 **OBC:** Oneida Business Committee
- 2.7 **Supervisor:** the individual OBC Member responsible for the day-to-day oversight of their Legislative Assistant.

3 WORK STANDARDS

- 3.1 Legislative Assistants are hired to support the OBC during the Supervisor's term in office.
 - 3.1.1 When the supervisor's position ends, the political appointment's term will end.

Hiring/ Posting Process

- 3.2** Each OBC Supervisor is authorized to hire one (1) full-time political appointee position up to 40 hours a week from the approved job description authorized by the OBC.
- 3.3** ~~The Tribal Chair's Office is eligible for two (2) full time positions with the option~~
~~The Tribal Chair has the option of hiring two (2) part time (0 to 20 hours a week)~~
~~employees to equal one full time position.~~
- 3.4** Hiring additional political appointees will require approval by OBC action.
- 3.4.1** All created and/or revised political appointed job descriptions must be approved by the OBC and documented through OBC minutes.
- 3.5** OBC Supervisors have four (4) options to hire a political appointee:
- 3.5.1** Choose a qualified individual,
- 3.5.2** Choose qualified applicant from a pool of OBC approved applications on file at HRD,
- 3.5.3** Use the Tribe's posting process by contacting the HR Representative, or
- 3.5.4** Choose not to hire a political appointee
- 3.6** HRD will facilitate the hiring process to include testing, background checks and scheduling for orientation.

Salary and Wages

- 3.7** The Supervisor must work with the OBC Office Administrator to negotiate all salary or wage adjustments to ensure there are adequate funds within the OBC's budget.
- 3.8** Political Appointees must meet the qualifications and requirements of the appropriate job description to negotiate wages.
- 3.8.1** If an applicant does not meet the qualifications and requirements of the job, he or she cannot negotiate wages and will be appointed at the minimum starting wage for the desired position.
- 3.8.1.1** Failure to pass the pre-employment drug test and background check automatically disqualifies the applicant.
- 3.9** Political Appointees are eligible for compensation increases, such as; salary or wage adjustments and bonuses.
- 3.9.1** Salary or wage adjustments are permissible by an approved budget with the budget specific to the employee.
- 3.9.2** Bonuses are permissible by an approved budget and standard operating procedure.

Transfers/Reassignments

- 3.10** Political Appointees are eligible for transfers, promotions and job reassignments after one year of continuous service as a political appointee for the OBC.

3.10.1 Status changes will be processed in the same manner as regular status employees.

4 PROCEDURES

Selecting A Political Appointment - No Posting

Supervisor

- 4.1 Submit request in writing to the BC Office Administrator, include which procedure to follow: posting or appointing.
- 4.2 Discuss wage negotiation with BC Office Administrator and HRD Representative.
- 4.3 Determine if the applicant meets the qualifications and requirements of education and experience for the selected job description.
 - 4.3.1 May consider utilizing the Table of Equivalencies during this process.

OBC Office Administrator

- 4.4 Send applicant's information to the HRD Representative to process.
- 4.5 Gain OBC support regarding the flexibility to budget funds to accommodate wage offers.
- 4.6 Work with Supervisor to negotiate wage and starting date.
 - 4.6.1 Be aware of all Political Appointee's wage offers to ensure fairness and equity.

HRD Representative

- 4.7 Perform all required testing, checks, and paperwork. This includes but is not limited to:
 - 4.7.1 Skills Testing
 - 4.7.2 Background Check
 - 4.7.3 Driver's License
 - 4.7.4 Pre-Employment Drug Testing
 - 4.7.5 New Hire paperwork
- 4.8 Notify the OBC Office Administrator and Supervisor whether the applicant meets the qualifications and requirements of the position.
- 4.9 Work with the OBC Office Administrator and Supervisor in offering employment.
- 4.10 If applicant does not meet all requirements: HRD Representative and the Supervisor may select a different applicant or hire at the minimum starting wage.
- 4.11 Notify applicant of approved wage and starting date.

Selecting A Political Appointment By Posting

OBC Office Administrator

- 4.12 Complete and approve the Request to Post Form and send to HRD Representative.
- 4.13 Assist the Supervisor with the hiring process upon request, which may include:
 - 4.13.1 Develop and/or prepare interview questions
 - 4.13.2 Attend Screening

- 4.13.3 Attend interviews
- 4.13.4 Choose an applicant
- 4.13.5 Decide if second interviews are necessary

HRD Representative

- 4.14 Schedule and attend a meeting with the Supervisor and BC Office Administrator to review Request to Post Form and decide number of days for posting.
- 4.15 Post the job description for seven calendar days.
- 4.16 Complete all applicable verifications and testing as the applications are received.
- 4.17 Notify the OBC Office Administrator of any applicants who have applied within two days after the position has closed.
- 4.18 Complete the Employment Screening Form from the qualifications and requirements as listed on the job description.
- 4.19 Ask if the Table of Equivalencies will be utilized. If yes, add the criteria to the appropriate form.
- 4.20 Determine if applicants meet the qualifications and requirements.
- 4.21 Schedule and facilitate Screening Process.
- 4.22 Develop or review existing interview questions.
- 4.23 Schedule and confirm interview date and time with applicants, Supervisor, and OBC Office Administrator.
- 4.24 Conduct interviews.
- 4.25 Inform Supervisor second interviews may be held.

Supervisor

- 4.26 Coordinate the negotiations with the OBC Office Administrator to ensure proper documents, procedures, and options are clear and the available funds are within the budget guidelines.
 - 4.26.1 When agreeing upon negotiations, consider other political appointment wages to ensure wage equity.
- 4.27 The Supervisor will send an e-mail to the HRD Representative or the OBC Office Administrator about the wage negotiations.

HRD Representative

- 4.28 Contact the selected applicant and offer or negotiate a wage or salary which is conditional based upon meeting the requirements of the job.
 - 4.28.1 If applicant declines, notify the Supervisor.
 - 4.28.2 Allow Supervisor to choose another applicant.
- 4.29 If applicant accepts, contact the Supervisor regarding the applicant's acceptance of the position with or without conditions and a start date.
- 4.30 Schedule and notify Political Appointee of mandatory New Employee Orientation dates.
- 4.31 Forward all new hire paperwork to Human Resource Information System department for processing.

5.0 REFERENCES

- 5.1** Request to Post Form (HRD)
- 5.2** Employment Screening Form (HRD)
- 5.3** Table of Equivalencies (HRD)

D. Support memorandum regarding Fiscal Year 2018 Budget Directives (2:34:46)

Sponsor: Trish King, Tribal Treasurer

Motion by Lisa Summers to support the memorandum provided by Trish King dated May 2, 2017, regarding Fiscal Year 2018 Budget Directives, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Trish King, Lisa Summers
Not Present: Melinda J. Danforth, Brandon Stevens, Jennifer Webster

Councilman David Jordan departs at 11:57 a.m.

E. Approve request to have the Oneida Election Board report screening results for all elected positions to GTC prior to elections (2:42:00)

Sponsor: Tina Danforth, Tribal Chairwoman

Motion by Lisa Summers to accept the request as information; and to defer the requestor back to the Oneida Election Board if they have any additional questions, seconded by Fawn Billie. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, Trish King, Brandon Stevens, Lisa Summers
Not Present: Melinda J. Danforth, David Jordan, Jennifer Webster

Motion by Brandon Stevens to recess at 12:09 p.m. until 1:30 p.m., seconded by Tehassi Hill. Motion withdrawn.

F. Make determination regarding June 14, 2017, regular Business Committee meeting

Sponsor: Lisa Summers, Tribal Secretary (3:32:44)

Motion by Brandon Stevens to recommend option #1 to hold Executive Session discussion on June 13, 2017, and hold the regular meeting on June 14, 2017, adjourning at 12:00 p.m. (noon), seconded by Lisa Summers. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, Trish King, Brandon Stevens, Lisa Summers
Not Present: Melinda J. Danforth, David Jordan, Jennifer Webster

G. Approve revised OBC Standard Operating Procedure entitled Political Appointees

Sponsor: Melinda J. Danforth, Tribal Vice-Chairwoman (3:35:11)

Motion by Lisa Summers to approve the OBC SOP entitled Hiring and Negotiating Political Appointments, with the revision date of April 27, 2017, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, Trish King, Brandon Stevens, Lisa Summers
Not Present: Melinda J. Danforth, David Jordan, Jennifer Webster

H. Review request from Oneida Personnel Commission and determine appropriate steps

Sponsor: Lisa Summers, Tribal Secretary (3:37:41)

Motion by Lisa Summers to approve the request for sixty (60) days instead of ninety (90) so that we have a little bit more time on our end to get everything ready, seconded by Brandon Stevens. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, Trish King, Brandon Stevens, Lisa Summers
Not Present: Melinda J. Danforth, David Jordan, Jennifer Webster

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Schedule a special OBC meeting for the purpose of administering the oaths of office for the remaining elected officials

3. Supporting Materials

Report Resolution Contract

Other:

1. 3.
2. 4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Steve Webster, Area Manager/Records Management
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

See attached memo.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter:

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Comprehensive Health Division quarterly report.

Requested Action: Approve Report.

1) Save a copy of this form for your records.

2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Oneida Comprehensive Health Division
 Oneida Community Health Center
 Behavioral Health Services
 Anna John Resident Centered Care Community
 Employee Health Nursing



ONEIDA COMPREHENSIVE HEALTH DIVISION
DR. RAVINDER VIR MEDICAL DIRECTOR
DEBRA DANFORTH, RN, BSN, OPERATIONS DIRECTOR
DIVISION UPDATE
Quarter 3 FY 2017
April-June, 2017



Executive Management Team:

Division Dir-Operations, Debra Danforth RN, BSN,	869-4807
Division Dir-Medical, Ravinder Vir, MD,	869-4808
Asst. Operations Director, Vacant,	869-4809
Executive Assistant, Mercie Danforth	869-4810
Business Operations Director, Jeff Carlson,	869-4805
Director of Nursing-OCHC, Sandra Schuyler,	869-4906
Behavioral Health Manager, Mari Kriescher,	490-3737
Employee Health Manager, Mary Cornelissen	405-4492
Public Health Officer, Eric Krawczyk,	869-4812
AJRCCC Continuum of Care Director, Dave Larson	869-2797
	869-4820

Mailing Address: P.O. Box 365, Oneida, WI 54155
<https://oneida-nsn.gov/resources/health/>

Oneida Community Health Center
 Behavioral Health Services
 Anna John Resident Centered Care Community
 Employee Health Nursing

525 Airport Rd., Oneida, WI 54155
 2640 West Point Rd., Green Bay, WI 54304
 2901 S. Overland Rd., Oneida, WI 54155
 701 Packerland Dr., Green Bay, WI 54303

Phone: (920) 869-2711 or 1-866-869-2711
 Phone: (920) 490-3790 or 1-888-490-2457
 Phone: (920) 869-2797
 Phone: (920) 405-4492

Fax: (920) 869-1780
 Fax: (920) 490-3883
 Fax: (920) 869-3238
 Fax: (920) 405-4494

THE ONEIDA COMPREHENSIVE HEALTH DIVISION IS COMPRISED OF:

*Oneida Community Health Center (OCHC)
Anna John Resident Centered Care Community (AJRCCC)
Oneida Behavioral Health (OBH)
Employee Health Services (EHS)*

VISION:

A progressive sustainable health system that promotes Tsi?niyukwaliho tál (Our Ways).

MISSION:

We provide the highest quality, holistic health care to ensure the wellness of OUR Oneida Community.

VALUES:

Responsive Leadership: *Consistent attentive listening, honesty, doing the right thing, timely decision making and seeing issues resolved to completion.*

Culturally Sensitive: *Meeting people where they are and being sensitive to their unique needs as human beings within the Oneida Community.*

Continuous Improvement: *Striving to achieve a higher quality of health care and a higher performing workforce through our Commitment to Learning and Growth.*

Communication: *Fostering honest, respectful and timely communication with the appropriate level of transparency.*

Safety: *Striving for an environment that provides the highest level of physical and emotional safety for our patients, employees and community in an environment free of fear, retaliation and repercussion.*

Respect: *Create a welcoming and compassionate environment focused on the individual needs of OUR community and Health Care Team*

OUR 2015-2018 STRATEGIC PLAN IS FOCUSED IN FOUR SPECIFIC AREAS:

1. Improve Population Health Management
2. Continuous Quality Improvement
3. Optimize Technology
4. Enhance Our Workforce

OUR 2015-2018 INITIATIVES THAT WILL BE FOCUSED TO ACHIEVE OUR STRATEGIES:

1. **Accreditation:** The Comprehensive Health Division will validate and assure the community the delivery of the highest quality health care services in achieving AAAHC (Accreditation Association for Ambulatory Health Care) accreditation by December 2017 through team work, leadership and commitment. By accomplishing accreditation we will provide staff a sense of accomplishment, increase quality of care, enhance public validation for community/customer satisfaction, improve recruitment/retention of providers, and increase the probability of outside funding.
2. **Advancing Technology:** Utilize innovative State of the Art technology and data analytics to continuously improve wellness and health outcomes.
3. **Optimize staffing processes:** To work collaboratively with HRD to enhance the Division processes for recruitment, hiring, and retention and provide recommendation (s) for change to the Oneida Business Committee by September 30, 2017. By enhancing the recruitment, hiring, and retention processes we will have a lean hiring practice, improve our recruitment and retention, enhance our services from HRD (letters, market analysis), have improved collaboration/working relationship with HRD, fill all vacancies with qualified people in a timely manner, and improve our Supervisor/Director satisfaction with HRD processes.

IMPROVE POPULATION HEALTH MANAGEMENT

Initiatives: Optimizing Staffing Processes and Accreditation

- We continue to recruit for vacancies in Primary Care including Pediatrics, Family Practice and Internal Medicine
- Michele Kreft, NP is the new Family Nurse Practitioner
- Our no show rates have declined in the past year to 10.2 % in the Medical Clinic and 11.5 % at OBH

Medical

- Routine appointments are currently booking 4-8 weeks out for the Medical Clinic
- **See attachment A for No Show data for Medical Clinic**
- **See attachment B for Access to Care data for Medical Clinic**

Behavioral Health

- We continue to provide walk in services with a Triage Counselor and Daily Wellness Support Services.
- Initial intake appointments are out 10 weeks for Mental Health,
- 9 weeks out for Co-Occurring
- 6 weeks out for ATODA
- 6 weeks for Veteran Evaluations
- 12 weeks out for Adult Psychiatry
- 11 weeks out for Child Psychiatry
- 1 week out for Psychology.
- Individual sessiona are out 10 weeks for Mental Health

- 2 weeks out for Co-Occurring
- 1 1/2 weeks for ATODA
- Medication check appointments-
 - 4 weeks for Adult Psychiatry
 - 1 week out for Child Psychiatry
 - 1 week out for Psychology
- **No Show and Access to Care reports see attachment C & D.**

Optical

- Routine exams are booking 5 months out for Optical
 - Optical does have a walk-in clinic on Monday and Thursday mornings for patients who needs their appointments sooner. A sign-up begins at 7:45 AM and the patient will need to wait to be seen.
 - Optical also sees emergencies as needed
- Practice Watch is a function within Compulink that would allow us to text a patient an appointment reminder. It is currently not functioning properly due to Oneida's security access requirements. We continue to work with MIS security to resolve this issue.

Dental

- For Routine exam and Filling appointments are booking out 11 weeks
- Emergencies are still being seen on a daily basis
- Dental Cleaning and other Perio appointments are being scheduled out to November. A call list is still utilized for cancelations.
- We are short staffed four dental assistants, Dental is working with HR to post the positions
- LTE Contract for Mr. Harold Peasley, is a former dental assistant instructor at FVTC, he will be training current dental assistants Expanded Functions
- Continue CDHC access to care w/hygienist (Barb A) in the Diabetes Clinic
- EFDA Margie Schmidt retired, last day was April 21, 2017.
- PIT (Process Improvement Team) continues to meet monthly, Purpose Statement: develop consensus based process improvement & efficiency by utilizing Plan-Check-Do-Act model
- Dr. Yvonne White working on AAAHC manual to include peer review.
- Floor boring has been completed in three dental treatment room's, we await the final report on if the foundation is the cause of the inside treatment room walls pulling away from main wall.

ANNA JOHN RESIDENT CENTERED CARE COMMUNITY (AJRCCC) UPDATE:

The average daily census for 3rd Qtr of the Fiscal Year 2017 is indicated in the chart below:

AJRCCC	APRIL	MAY	JUNE	TOTAL
Total Billable Days for the Residents	1266	1349	1292	3907
# of Calendar Days	30	31	30	91
Daily Average Census	42	43.0	43	
*Oneida Enrolled	36	34	36	
*Other Tribe	4	4	4	
*Non-Tribal	5	6	6	
%Full	87.92%	90.66%	89.72%	89.45%
	Payment Source		Medicaid	71.38%
			Medicare A	8.42%
			Private	13.97%
			VA	3.51%
			Ins/Adv	2.87%

*Varies by Admissions and Discharges throughout the month

- Between the months of April to June, 2017; HRD reported that as of 7/1/2017 the Anna John Resident Centered Care Community had a total of 67 tribal employees working the 24/7 shifts to care for our Residents during the 3rd quarter 2017. Staffing continues to be an issue with difficulty in securing Certified Nursing Assistants and Nursing staff.
- Quality Assurance/Regulatory Compliance Issues:
The Quality Assurance mandated that all AJRCCC staff training was completed along with additional policy and procedures updated by the Quality Assurance Team;
Shared activities between AJRCCC and Elder Services continue on a scheduled plan.
- The Congregate Mealsite hours of operation are Monday through Friday from 8:00 AM to 4:30 PM and continues to average 80-100 per day in attendance.
- Dave Larson title has officially been changed to Continuum of Care Director which includes the duties and functions of Administrator for the AJRCCC.
- The AJRCCC board continues to meet on a regular basis.
- **See attached Activities Calendar for June/July Attachment E**

OPTIMIZE TECHNOLOGY

Initiatives: Advancing Technology and Accreditation

ELECTRONIC MEDICAL RECORD (EMR):

- **The EMR Team** continues its work within the Oneida Comprehensive Health Division (OCHD) including Oneida Community Health Center (OCHC), Oneida Behavioral Health (OBH), Optical and Dental. The EMR Team continues ongoing review and updating of the system on a regular basis as new releases are available within the application and all additional software. Every software update or new release that is needed requires numerous hours of testing and coordination for implementation to assure that all the application and updates are tested before going live. Our next anticipated upgrade is expected to occur in May of 2017. There are many anticipated changes and upgrades required in our server configurations that are required for the next upgrade to 12.2. This upgrade is in preparation for the Electronic Prescribing of Controlled Substances (EPCS). MIS has been working this last quarter on upgrading our servers for all the needed applications to meet the requirements for this new version of Centricity
- **HIPAA Security Policies/Procedures:** No update at this time.
- **Risk Assessment-** The RA team continues to hold regular meetings to review findings and resolutions for remaining risks. Prior to year end we will again seek guidance from Metastar in meeting risk assessment requirements for the upcoming year.
- **Patient Portal-** We continue to work on adoption and education to patients on the concept of the patient portal and to encourage patients to be engaged in their healthcare through technology and online access to their healthcare information. We have joined the teams of Medical, Behavioral Health, Optical and Dental to have a combined access page to the three portals for all OCHD patients. We are working on a joint pamphlet and advertising to promote all three portals as a whole. We have been working on revisions of the pamphlet with the change in website design and logo. OCHD Staff attended training that was geared to improving our current patient portal appearance and functionality. Work will continue on these details however these changes may include additional resources. Data masking was implemented that is intended to improve the quality of pertinent data that the patient will see on the portal. Work continues to bring secure messaging to the portal users and clinical teams to enable the ability to communicate securely to patients and other providers.
- **Automated Clinically Messaging (ACM) and Document Management (DM).** This software and functionality has currently been implemented within the Centricity EMR and Patient Portal. The functionality will allow providers the ability to send automated mass and individual messaging to patients and referring providers. Automated individual messaging will include the Clinical Visit Summaries (CVS) which can be sent securely to patients and Transfer of Care (TOC) documents which can be sent to consulting providers. OCHD continues with the automation of Transfer of Care (TOC) documents to referring providers that we have acquired secure email addresses for. Oneida Behavioral Health (OBH) has started work on bringing TOC documents to referring providers for the OBH providers. The ability to obtain direct addresses for our service providers has been a challenge and we continue to work on.
- **E-signature-** No update
- **Meaningful Use (MU):** We continue to follow the guidelines for the Medicaid program of Meaningful Use as we are directed by Center for Medicaid and Medicare Services (CMS) for year 2017. We have been monitoring providers' performance results and will evaluate the Clinical Quality Reporting (CQR) results on an ongoing basis in order to meet MU for 2017. We will need to report on any 90 day period in 2017. Submission of data will need to be submitted to CMS by March 31, 2018. This will be the third of five years of data submission for this annual incentive. The team continues to work with MetaStar to help all areas understand and meet Meaningful Use and its different programs. They have also helped areas get eligible providers signed up to CMS programs and will continue to guide us as the Quality Payment Program (QPP) incentive program changes in 2017.
- **PQRS-Physician's Quality Reporting System/ Quality Payment Program (QPP) incentive program:** PQRS program has been changed to the Quality Payment Program (QPP) incentive program. Not all providers need to participate individually, OCHD will submit our data to

CMS as a group. This will allow for a larger positive payment adjustment to our Medicare claims for 2019. We will need to report on any 90 day period in 2017. This is the first year of this program. Numerous changes are occurring within CMS within these programs which we will need to stay abreast of and continue to monitor.

- **BH Chart Status Project-** No update at this time.
- **Centricity Live:** OCHD staff along with MIS staff attended the annual conference training this quarter. The training was geared at improving our patient portal and Qvera Interface training. Additional functionality needs were observed and identified that would benefit the operations of the OCHD Health Record i.e. Automated patient reminders, and Business Intelligence tools for reporting. The EMR Team will continue to assess and begin with preparing Request for Proposals (RFPs) if it is determined to move forward with these products.
- **Reports-** We continue to work with MIS on BH Reports. We have been successful with getting ongoing reports of Access to Care, Monthly and Quarterly No Show/Cancellation Summary and Provider Utilization Reports. However, MIS will be continuing to assist us with limited time available.
- **Team Based Care /Population Health Management-** No update available.

PATIENT MANAGEMENT SYSTEM (PMS)

- Electronic Data Interchange (EDI) Eligibility - The GE Centricity EDI plug-ins are set up and being used by our Billing and Registration staff on a patient-by-patient basis. Batch eligibility EDI by the provider schedule has currently been suspended until we get a better idea on the number of transactions we are actually sending in a month. Many of the main insurances have been linked to this capability which has allowed us to electronically check insurance eligibility on a patient in real-time, directly from GE Centricity.
- RAVE demonstration and initial kick-off meeting was held. RAVE is an emergency notification system that can contact our employees via text messages in the event of an emergency and a mass notification can go out to all employees. i.e. Emergency closure

CONTINUOUS QUALITY IMPROVEMENT

Initiatives: Accreditation

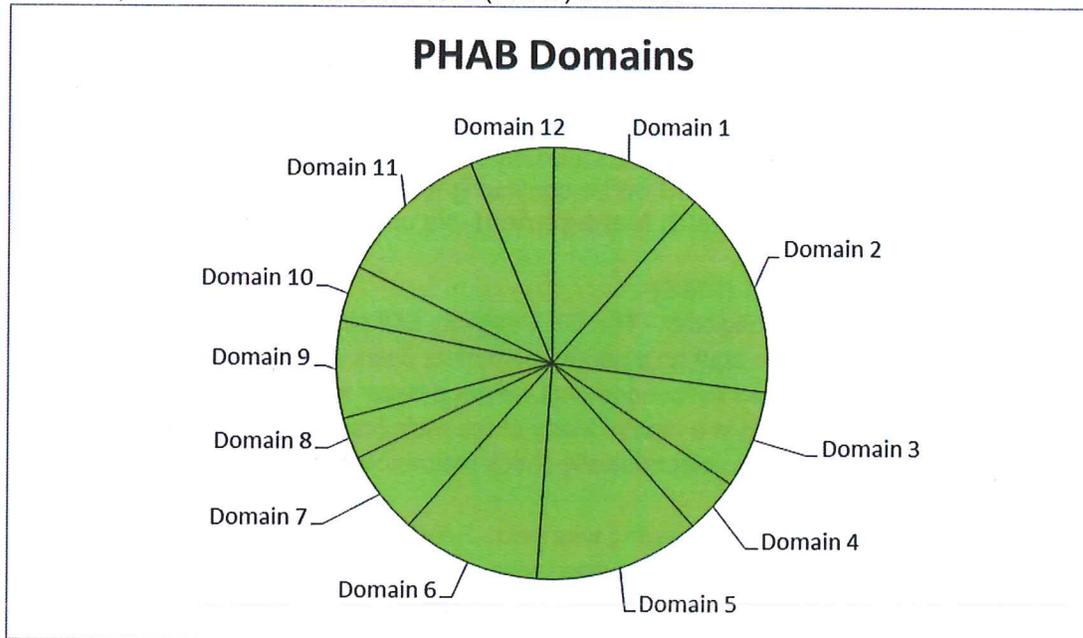
Accreditation of the Health Division

- Data tracking and collecting with all departments a new data base has been implemented which will enable better reporting for QA studies as we move toward accreditation.
- Orientation Manual is being worked on and will become a part of the E-Learning series for the OCHD
- Credentialing process is being finalized
- Peer Review and Chart Audit process is underway.
- Reviewing vendors for possible automated system to use during closures, call tree, etc. in process
- Departments updating their SOPs.
- All Dept. and Committee SOPs are in process of review and approval beginning in January. Completion date goal - October
- All departments are meeting monthly, taking minutes, and storing them within the g:drive under Accreditation.

Public Health Accreditation

- Accreditation Coordinator received invitation to present for the Tribal Accreditation Learning Community (TALC) webinar series coordinated through the National Indian Health Board for May 2017. Topic of discussion will be how to keep stakeholders engaged in public health accreditation work.
- Accreditation Coordinator presented at a national conference, Open Forum in April 2017. The Accreditation Coordinator from the Ho Chunk Nation was a co-presenter. Topic of discussion was our journey developing working relationships with local and state public health partners.

- In May, we learned that our site visit dates would be October 4th & 5th 2017.
- In May 2017, accreditation coordinator presented for the Tribal Accreditation Learning Community (TALC) webinar series coordinated through the National Indian Health Board. Topic of discussion was how to keep staff engaged in public health accreditation work.
- In June, health officer and accreditation coordinator attended a site visit for another tribal organization. We served as note takers, but also gained experience in what to expect during a Public Health Accreditation Board (PHAB) site visit.



** Red- No review yet

Yellow- greater than 50% complete

Green- 100% complete

ENHANCE OUR WORKFORCE

Initiative: Optimizing our staffing processes

HUMAN RESOURCE MANAGEMENT

Number As of 07/01/17 Comprehensive Health Division Employees: 340

- **120 Oneida Enrolled**
- **28 American Indian/Alaskan**
- **3 Black/African American**
- **2 Asian**
- **4 Hispanic/Latino**
- **171 Caucasian/other**
- **AJRCCC: (67)**
 - 27 Oneida Enrolled (INCREASED FROM 15% TO 40.4% OF EMPLOYEE BASE FOR AJRCCC)
 - 6 American Indian/Alaskan (COMBINED 53% OF EMPLOYEE BASE FOR AJRCCC ARE NOW NATIVE)
 - 1 Asian
 - 4 Hispanic/Latino
 - 0 Black/African American
 - 1 Two or more Races
 - 28 Caucasian/other

- **Behavioral Health (38)**
 - 1 Hispanic/Latino
 - 5 American Indian/Alaska Native
 - 1 Black/African American
 - 7 Oneida Enrolled
 - 24 Caucasian/other
- **Employee Health Nursing (9)**
 - 1 American Indian/Alaska Native
 - 2 Oneida Enrolled
 - 6 Caucasian/other
- **Medical (45)**
 - 4 American Indian/Alaskan
 - 0 Hispanic/Latino
 - 1 Two or more Races
 - 12 Oneida Enrolled of WI
 - 28 Caucasian/other
- **Operations (181)**
 - 2 Black/African American
 - 13 American Indian/Alaska Native
 - 76 Oneida Enrolled of WI
 - 88 Caucasian/other
 - 1 Asian
 - 1 Hispanic/Latino
- **Current vacancies as of 07/01/17:**
- **RN-AJRCCC-1**
- **RN-OCHC-1**
- **CMA-OCHC-1**
- **LPN-OCHC-1**
- **CNA-AJRCCC**
- **Dietician WIC Outpatient-1**
- **RN-Community/Public Health Nursing-1**
- **Dental Assistant-4-and Emergency Temp**
- **Dental Hygienist-Sub-Relief**
- **Psychiatrist**
- **Dual Diagnosis Therapist-1**
- **Clinical Substance Abuse Counselor**
- **Psychiatric Nurse Practitioner-1**
- **Psychiatric RN LTE-1**
- **Triage Counselor-1**
- **Triage Counselor Supervisor-1**
- **Physician Pediatrician, Internal Medicine**

FINANCIALS

**Based on 3rd Quarter FY 2017 Unclosed GL as of 6/30/17

Funding Sources for FY-2017

TRIBAL CONTRIBUTION: 5%

GRANTS: 4%

OTHER SOURCES:

External Sales/Third Party Revenue/other income 59%

Indian Health Services: 32%

Total Budget: **\$42,617,267**

Status as of 06/30/17

Budget as of 06/30/17: \$42,617,267

Revenues/Expenditures as of 06/30/17: \$35,758,547

LONG TERM CARE:

- The issue related to the proposed 1115 Medicaid Waiver and its impact on the Tribes in Wisconsin has been the focus of our discussions during this past quarter. The result has been the Oneida Nation's right to invoke direct Tribal Consultation with Center for Medicaid and Medicare (CMS). This is due to the impacts the 1115 Waiver amendments will have on not only Oneida but also on all the Tribes in Wisconsin. This impact is also being watched by other Tribal Nations on a national level as it could have impact in other Tribal communities in other states. There is a great deal of concern regarding the Social Security Act and its impact on both MA and MA waivers. This includes all waivers (e.g. 1915a, 1915b, 1915c, 1915i, 1115). The concern centers around the Office of General Counsel for CMS. General Counsel has repeatedly said that federal statute, federal regulation, and court rulings (to include U.S. Supreme Court) notwithstanding, Tribes are considered an ethnic minority and not a political entity. While Several Tribes and States have found language to side step this issue, this is becoming a larger and more significant issue, particularly as the environment of healthcare is rapidly changing. The Long Term Care Workgroup with the State of WI, the 1915BC waiver is the recommendation that will be coming forward from this group. This will be the priority agenda item at the next Wisconsin Tribal Health Directors meeting in May to assure support from all of the Tribes in Wisconsin and was added to the DHS consultation meeting agenda in June as well as the DHHS direct consultation with Tribes in July at New Buffalo, MI.
- MACRA and MIPS final rule was released on October 14, 2016 and does not specifically say that Tribes are exempted from the requirements. MACRA does not provide an explicit exclusion for FQHC's but they should not be affected because they bill under an all-inclusive rate. **This needs to be clarified with CMS and remains an issue throughout Indian Country.**
- Reorganization has been finalized and the 5 positions from Governmental Services Division have been moved under the direction of the Case Management Supervisor and within the Community Options Program(COP) to better address the needs of long term care and improved efficiencies within this area. This also includes the position of the Dementia Care Specialist.

Celebrations and Successes:

- Application for Zero Suicide Academy was approved
- Completed Customer Experience Survey for Oneida Behavioral Health in June
- Transition of 5 new staff to Case Management/Community Health Services from GSD in May/June
- Increased Face to Face visit hours in patient care and No Wait list for Case Management Services
- PHAB Accreditation Site visit scheduled for October 4-5, 2017.
- QPR Training offered to all employees of the Oneida Comprehensive Health Division.
- 2017 CIP-II Waiver Audit results-no problems identified.
- Health Promotion had 2 classes completed using the Center for Disease Control (CDC) Diabetic Prevention Program (DPP) Prevent T2 Curriculum. 75% of the participants last weight with an average of 6/8% body weight loss.
- Trial period offering later therapy clinic hours on Monday Thursday until 5:30 pm (4 pm appt / 4:45 pm appt).
- Completed transition to new evaluation/re-evaluation complexity coding to 100% compliance
- Completed High School Job Shadowing within Physical Therapy
- Trial offering second Physical Therapist 7:15 am appointments and additional 2 days a week.
- Cultural Awareness Training for 3rd Quarter
 - April: Thunder Moon 239 completed of the 349 assigned (232 pass, 7 fail)
 - May: Planting Moon (Seed Ceremony) 233 completed of the 352 assigned (230 pass, 3 fail)
 - June: Strawberry Ceremony 221 completed of the 350 assigned (221 pass, 3 fail)
- Contract signed 4/16/17 with First Impressions Pediatric Dental Clinic regarding a referral system for children w/MA/Badger Care or those with no insurance who are in need of a pediatric dentist.
- CDHC Hygienist (Barb A.) has completed another year in the Oneida Nation School System.
 - At Oneida Nation Elementary School provided, 234 dental exam, 377 dental cleanings and 376 sealants, additionally fluoride varnish applications were provided to all 245 students with permission slips.
 - At Head Start a total of 89 children received dental cleanings & fluoride varnish
 - At Oneida Nation High School a total of 26 students received dental cleans, exams and fluoride varnish.
- All staff attended Question Persuade Referral Training Suicide Prevention.
- We have staff member who tracks the successful completion of cultural awareness e learning on a monthly basis. Our Optical Department has been 100% compliant since the start of the program!
- We promoted National Sunglass Day on June 27th. We gathered staff's pictures sporting sunglasses and Irene Danforth made it into a video which was put on the Comprehensive Health Division Facebook page. Information on the importance of using sun wear was also put on the monitors in the Health Center, in the Communications notifications, and Comprehensive Health Division Facebook page.
- All Eye Care Staff and patients successfully evacuated into the inner Eye Care Department hallway for the tornado warning on 6-14-17. Everything went well and our staff helped calm some of the small children by coloring with them.

- **Please follow us on our Oneida Comprehensive Health Division Facebook page!**



NATIONAL SUNGLASSES DAY CELEBRATION IN JUNE!

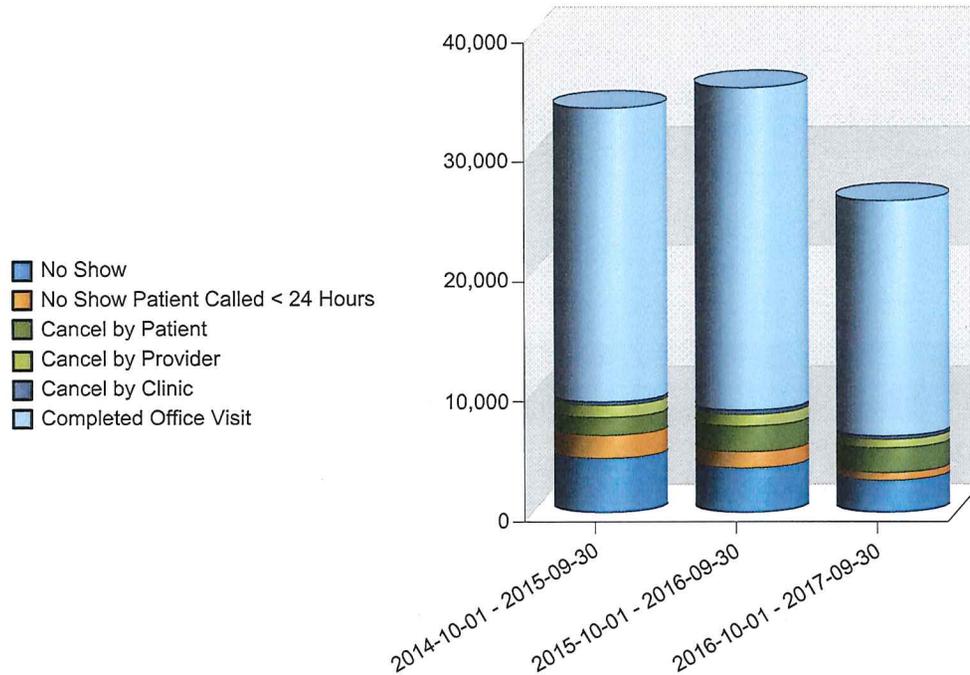


NATIONAL SUNGLASSES DAY CELEBRATION IN JUNE!



Three Year By Quarter No Show/Cancellation Summary

Oneida Health Center Medical Clinic



Range	FY QTR	No Show	%	No Show Patient Called < 24 Hrs	%	Cancel by Patient	%	Cancel by Provider	%	Cancel by Clinic	%	No Show Cancellation Total	Completed Office Visit	Total Appointments	Billed Visits	Total Clients
2016-10-01 - 2017-09-30	Qtr03	799	9.9%	153	1.9%	786	9.7%	229	2.8%	57	0.7%	2,003	6,060	8,063	5,844	4,196
	Qtr02	833	9.6%	226	2.6%	685	7.9%	234	2.7%	137	1.6%	1,990	6,681	8,671	6,692	4,459
	Qtr01	977	10.8%	267	2.9%	583	6.4%	256	2.8%	100	1.1%	2,136	6,917	9,053	6,917	4,808
2016-10-01 - 2017-09-30		2,609	10.1%	646	2.5%	2,054	8.0%	719	2.8%	294	1.1%	6,129	19,658	25,787	19,453	7,424
2015-10-01 - 2016-09-30	Qtr04	939	11.0%	292	3.4%	565	6.6%	185	2.2%	59	0.7%	2,002	6,545	8,547	6,545	4,622



Three Year By Quarter No Show/Cancellation Summary

Oneida Health Center Medical Clinic

Range	FY QTR	No Show	%	No Show Patient Called < 24 Hrs	%	Cancel by Patient	%	Cancel by Provider	%	Cancel by Clinic	%	No Show Cancellation Total	Completed Office Visit	Total Appointments	Billed Visits	Total Clients
2015-10-01 - 2016-09-30	Qtr03	861	9.9%	353	4.0%	550	6.3%	192	2.2%	109	1.2%	2,027	6,710	8,737	6,712	4,502
	Qtr02	777	9.0%	338	3.9%	548	6.4%	285	3.3%	115	1.3%	2,038	6,576	8,614	6,578	4,464
	Qtr01	1,059	11.2%	370	3.9%	522	5.5%	337	3.6%	81	0.9%	2,361	7,061	9,422	7,065	5,031
2015-10-01 - 2016-09-30		3,636	10.3%	1,353	3.8%	2,185	6.2%	999	2.8%	364	1.0%	8,428	26,892	35,320	26,900	8,663
2014-10-01 - 2015-09-30	Qtr04	989	13.3%	334	4.5%	402	5.4%	315	4.2%	65	0.9%	2,105	5,358	7,463	5,359	4,102
	Qtr03	1,119	13.1%	502	5.9%	418	4.9%	346	4.1%	65	0.8%	2,450	6,072	8,522	6,074	4,355
	Qtr02	1,120	12.7%	601	6.8%	368	4.2%	145	1.6%	69	0.8%	2,303	6,524	8,827	6,526	4,514
	Qtr01	1,203	13.5%	509	5.7%	361	4.0%	206	2.3%	85	1.0%	2,364	6,563	8,927	6,566	4,808
2014-10-01 - 2015-09-30		4,431	13.1%	1,946	5.8%	1,549	4.6%	1,012	3.0%	284	0.8%	9,222	24,517	33,739	24,525	8,307
Summary		10,676	11.3%	3,945	4.2%	5,788	6.1%	2,730	2.9%	942	1.0%	23,779	71,067	94,846	70,878	11,598



Comprehensive Health - Access Of Care

3rd Available appointment

OCHC-Call In/Follow Up/NO-Adult

Resource	Appointment Type	Next 3rd Open
Eberhardy PA-C, Stephanie	Nurse Only-Eber-30	Jul 24, 2017 11:30:00 AM
	Follow Up-30	Jul 24, 2017 10:30:00 AM
Flood MD, Michael	Nurse Only-Flood-30	Jul 18, 2017 10:00:00 AM
	Follow Up-30	Sep 18, 2017 2:30:00 PM
	Call In-30	Aug 3, 2017 12:30:00 PM
Kennard MD, Jay K	Nurse Only-Kennard	Aug 8, 2017 4:00:00 PM
	Follow Up-30	Oct 3, 2017 10:30:00 AM
	Call In-30	Aug 29, 2017 1:30:00 PM
Sumnicht MD, Paul H	Nurse Only-Sumnicht	Jul 7, 2017 11:00:00 AM
	Follow Up-30	Aug 15, 2017 4:00:00 PM
	Call In-30	Jul 12, 2017 1:00:00 PM
Thiry APNP NP-C, Lori B	Nurse Only-Thiry	Jul 6, 2017 3:30:00 PM
	Follow Up-30	Jul 5, 2017 3:00:00 PM
	Call In-30	Jul 12, 2017 11:30:00 AM
Vir, Ravinder	Nurse Only-Vir	Jul 25, 2017 3:00:00 PM
	Follow Up-30	Jul 25, 2017 1:00:00 PM
Wells APNP FNP-BC, Ann M	Nurse Only-Wells-30	Jul 10, 2017 3:00:00 PM
	Follow Up-30	Aug 2, 2017 10:00:00 AM
	Call In-30	Jul 12, 2017 9:00:00 AM

OCHC-Call In/Follow Up/NO-Peds

Resource	Appointment Type	Next 3rd Open
Kennard MD, Jay K	Nurse Only-Kennard	Aug 8, 2017 4:00:00 PM



Comprehensive Health - Access Of Care

3rd Available appointment

Resource	Appointment Type	Next 3rd Open
Kennard MD, Jay K	Follow Up-30	Oct 3, 2017 10:30:00 AM
	Call In-30	Aug 29, 2017 1:30:00 PM
Langner APNP, Dianna L	Follow Up-30	Jul 5, 2017 4:00:00 PM
	Call In-30	Jul 6, 2017 8:30:00 AM
Sumnicht MD, Paul H	Nurse Only-Sumnicht	Jul 7, 2017 11:00:00 AM
	Follow Up-30	Aug 15, 2017 4:00:00 PM
	Call In-30	Jul 12, 2017 1:00:00 PM
Thiry APNP NP-C, Lori B	Nurse Only-Thiry	Jul 6, 2017 3:30:00 PM
	Follow Up-30	Jul 5, 2017 3:00:00 PM
	Call In-30	Jul 12, 2017 11:30:00 AM
Verstoppen MD, Gerald	Nurse Only-Verstoppen-60	Jul 11, 2017 3:30:00 PM
	Follow Up-30	Jul 13, 2017 2:30:00 PM
	Call In-30	Jul 12, 2017 3:00:00 PM
Wells APNP FNP-BC, Ann M	Nurse Only-Wells-30	Jul 10, 2017 3:00:00 PM
	Follow Up-30	Aug 2, 2017 10:00:00 AM
	Call In-30	Jul 12, 2017 9:00:00 AM

OCHC-Diabetes NP-Call In/Follow Up

Resource	Appointment Type	Next 3rd Open
Moureau APNP BC-ADM, Timothy A	Follow Up-DM	Oct 10, 2017 2:30:00 PM
	Call In-30	Jul 31, 2017 4:00:00 PM

OCHC-Diabetes NP-Foot Care

Resource	Appointment Type	Next 3rd Open
Moureau APNP BC-ADM, Timothy A	Foot Care-30	Oct 10, 2017 2:30:00 PM



Comprehensive Health - Access Of Care

3rd Available appointment

OCHC-Diabetes NP-New Patient-60

Resource	Appointment Type	Next 3rd Open
Moureau APNP BC-ADM, Timothy A	New Patient-60	Aug 2, 2017 8:00:00 AM

OCHC-Diabetes RD-Call In/Follow Up/Med Adjustment

Resource	Appointment Type	Next 3rd Open
Schwantes RD CDE, Betty	Med Adjustment	Jul 31, 2017 3:00:00 PM
	DM Education Follow Up	Jul 31, 2017 3:00:00 PM
	Call In-60	Jul 31, 2017 3:00:00 PM

OCHC-Diabetes RD-New Patient

Resource	Appointment Type	Next 3rd Open
Schwantes RD CDE, Betty	New Patient-60	Aug 1, 2017 9:00:00 AM

OCHC-Diabetes RN-Call In/Follow Up/Med Adjustment

Resource	Appointment Type	Next 3rd Open
Colwitz RN CDE, Boni J	Med Adjustment	Jul 18, 2017 10:30:00 AM
	DM Education Follow Up	Jul 18, 2017 10:30:00 AM
	Call In-60	Jul 18, 2017 10:30:00 AM

OCHC-Diabetes RN-New Patient

Resource	Appointment Type	Next 3rd Open
Colwitz RN CDE, Boni J	New Patient-60	Jul 18, 2017 10:30:00 AM

OCHC-New Patient-Adult

Resource	Appointment Type	Next 3rd Open
Eberhardy PA-C, Stephanie	New Patient-30	Jul 24, 2017 10:30:00 AM



Comprehensive Health - Access Of Care

3rd Available appointment

Resource	Appointment Type	Next 3rd Open
Flood MD, Michael	New Patient-30	Sep 18, 2017 2:30:00 PM
Kennard MD, Jay K	New Patient-30	Sep 6, 2017 8:30:00 AM
Sumnicht MD, Paul H	New Patient-30	Jul 11, 2017 2:00:00 PM
Thiry APNP NP-C, Lori B	New Patient-60	Aug 11, 2017 2:30:00 PM
Vir, Ravinder	New Patient-30	Jul 25, 2017 2:00:00 PM
Wells APNP FNP-BC, Ann M	New Patient-30	Jul 19, 2017 1:00:00 PM

OCHC-Physical-Eberhardy

Resource	Appointment Type	Next 3rd Open
Eberhardy PA-C, Stephanie	Physical-60	Nov 22, 2017 10:00:00 AM

OCHC-Physical-Flood

Resource	Appointment Type	Next 3rd Open
Flood MD, Michael	Physical-30	Jul 18, 2017 1:00:00 PM

OCHC-Physical-Kennard

Resource	Appointment Type	Next 3rd Open
Kennard MD, Jay K	Physical-30	Sep 6, 2017 8:30:00 AM

OCHC-Physical-Sumnicht

Resource	Appointment Type	Next 3rd Open
Sumnicht MD, Paul H	Physical-30	Jul 11, 2017 2:00:00 PM

OCHC-Physical-Thiry

Resource	Appointment Type	Next 3rd Open
Thiry APNP NP-C, Lori B	Physical-60	Oct 11, 2017 2:00:00 PM



Comprehensive Health - Access Of Care

3rd Available appointment

OCHC-Physical-Wells

Resource	Appointment Type	Next 3rd Open
Wells APNP FNP-BC, Ann M	Physical-60	Oct 31, 2017 1:30:00 PM

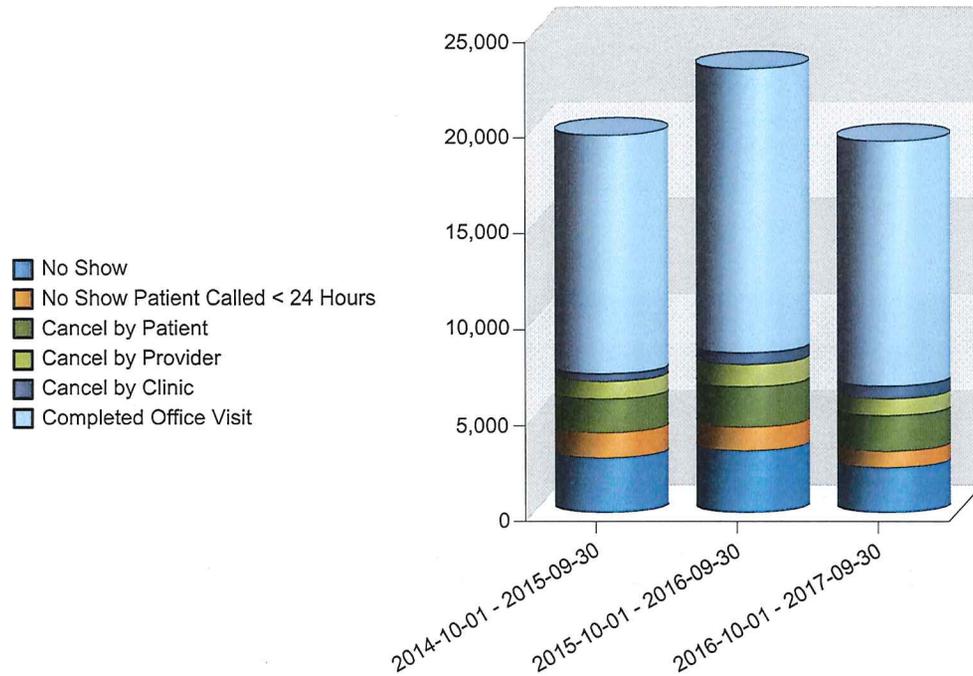
OCHC-WCE-Peds and FP

Resource	Appointment Type	Next 3rd Open
Kennard MD, Jay K	Well Child Exam-30	Aug 29, 2017 9:30:00 AM
Langner APNP, Dianna L	Well Child Exam-30	Jul 20, 2017 8:00:00 AM
Sumnicht MD, Paul H	Well Child Exam-30	Aug 18, 2017 9:00:00 AM
Thiry APNP NP-C, Lori B	Well Child Exam-30	Jul 12, 2017 3:00:00 PM
Verstoppen MD, Gerald	Well Child Exam-30	Jul 26, 2017 1:30:00 PM
Wells APNP FNP-BC, Ann M	Well Child Exam-30	Jul 17, 2017 9:30:00 AM



Three Year By Quarter No Show/Cancellation Summary

Behavioral Health Services



Range	FY QTR	No Show	%	No Show Patient Called < 24 Hrs	%	Cancel by Patient	%	Cancel by Provider	%	Cancel by Clinic	%	No Show Cancellation Total	Completed Office Visit	Total Appointments	Billed Visits	Total Clients
2016-10-01 - 2017-09-30	Qtr04	85	18.4%	15	3.3%	36	7.8%	8	1.7%	41	8.9%	185	276	461	194	335
	Qtr03	757	12.6%	285	4.7%	559	9.3%	204	3.4%	159	2.6%	1,964	4,036	6,000	3,814	1,554
	Qtr02	724	10.7%	271	4.0%	743	11.0%	400	5.9%	281	4.2%	2,419	4,345	6,764	4,198	1,596
	Qtr01	767	12.5%	286	4.7%	535	8.7%	259	4.2%	185	3.0%	2,032	4,093	6,125	4,024	1,535
2016-10-01 - 2017-09-30		2,333	12.1%	857	4.4%	1,873	9.7%	871	4.5%	666	3.4%	6,600	12,750	19,350	12,230	2,301



Three Year By Quarter No Show/Cancellation Summary

Behavioral Health Services

Range	FY QTR	No Show	%	No Show Patient Called < 24 Hrs	%	Cancel by Patient	%	Cancel by Provider	%	Cancel by Clinic	%	No Show Cancellation Total	Completed Office Visit	Total Appointments	Billed Visits	Total Clients
2015-10-01 - 2016-09-30	Qtr04	768	13.2%	268	4.6%	538	9.2%	281	4.8%	164	2.8%	2,019	3,811	5,830	3,806	1,481
	Qtr03	807	13.8%	314	5.4%	532	9.1%	207	3.5%	101	1.7%	1,961	3,895	5,856	3,656	1,496
	Qtr02	824	13.2%	339	5.4%	573	9.2%	307	4.9%	224	3.6%	2,267	3,980	6,247	3,656	1,501
	Qtr01	808	15.5%	331	6.4%	457	8.8%	362	7.0%	122	2.3%	2,080	3,126	5,206	3,128	1,377
2015-10-01 - 2016-09-30		3,207	13.9%	1,252	5.4%	2,100	9.1%	1,157	5.0%	611	2.6%	8,327	14,812	23,139	14,246	2,485
2014-10-01 - 2015-09-30	Qtr04	698	14.5%	323	6.7%	447	9.3%	203	4.2%	117	2.4%	1,788	3,013	4,801	3,014	1,365
	Qtr03	785	15.3%	316	6.2%	463	9.0%	262	5.1%	70	1.4%	1,896	3,233	5,129	3,236	1,510
	Qtr02	694	13.7%	340	6.7%	493	9.7%	265	5.2%	111	2.2%	1,903	3,154	5,057	3,154	1,412
	Qtr01	664	14.2%	346	7.4%	352	7.5%	187	4.0%	102	2.2%	1,651	3,032	4,683	3,032	1,424
2014-10-01 - 2015-09-30		2,841	14.4%	1,325	6.7%	1,755	8.9%	917	4.7%	400	2.0%	7,238	12,432	19,670	12,436	2,417
Summary		8,381	13.5%	3,434	5.5%	5,728	9.2%	2,945	4.7%	1,677	2.7%	22,165	39,994	62,159	38,912	4,081



BH - Access Of Care

3rd Available appointment

BH ATODA Intakes

Resource	Appointment Type	Next 3rd Open
Agneessens BA CSAC CSIT, Mike F	Intake Mental Health/ATODA-90	Aug 21, 2017 1:00:00 PM
Kleinschmidt, Heidi Jean	Intake Mental Health/ATODA-90	Aug 14, 2017 1:00:00 PM
Krueger MSW APSW CSAC, Rebecca	Intake Mental Health/ATODA-90	Sep 12, 2017 10:00:00 AM
Lalonde BS CSAC, Scott	Intake Mental Health/ATODA-90	Aug 15, 2017 7:00:00 AM
Metoxen MSW APSW SAC, Lynn	Intake Mental Health/ATODA-90	Nov 2, 2017 10:00:00 AM
Rasmussen BSW CSAC, Dale S	Intake Mental Health/ATODA-90	Aug 10, 2017 6:00:00 PM

BH-ATODA (C2)

Resource	Appointment Type	Next 3rd Open
Agneessens BA CSAC CSIT, Mike F	Individual Therapy Session-60	Jul 26, 2017 10:00:00 AM
Kleinschmidt, Heidi Jean	Individual Therapy Session-60	Jul 11, 2017 8:00:00 AM
Krueger MSW APSW CSAC, Rebecca	Individual Therapy Session-60	Jul 12, 2017 3:00:00 PM
Lalonde BS CSAC, Scott	Individual Therapy Session-60	Jul 14, 2017 10:30:00 AM
Rasmussen BSW CSAC, Dale S	Individual Therapy Session-60	Jul 5, 2017 11:30:00 AM

BH-Co-Occuring Intake

Resource	Appointment Type	Next 3rd Open
Collier, Carmen D MS LPC CSAC	Intake Mental Health/ATODA-90	Sep 1, 2017 8:00:00 AM
King MSW LCSW CSAC, Mary Beth	Intake Mental Health/ATODA-90	Oct 5, 2017 8:00:00 AM
Lambert LPC CSAC, Timothy C	Intake Mental Health/ATODA-90	Oct 2, 2017 1:00:00 PM

BH-Co-Occuring C2

Resource	Appointment Type	Next 3rd Open
Cheney MSW, LCSW, SAS Benjamin R	Individual Therapy Session-60	Jun 30, 2017 2:00:00 PM



BH - Access Of Care

3rd Available appointment

Resource	Appointment Type	Next 3rd Open
Collier, Carmen D MS LPC CSAC	Individual Therapy Session-60	Jul 13, 2017 4:00:00 PM
King MSW LCSW CSAC, Mary Beth	Individual Therapy Session-60	Jul 31, 2017 9:00:00 AM
Lambert LPC CSAC, Timothy C	Individual Therapy Session-60	Jul 25, 2017 10:00:00 AM
Nehring MSE LPC CSAC CS, Teri	Individual Therapy Session-60	Aug 1, 2017 7:00:00 AM

BH MH Intakes

Resource	Appointment Type	Next 3rd Open
Blanks MA LPC SAC IT, Heidi	Intake Mental Health/ATODA-90	Sep 12, 2017 9:30:00 AM
Brito, MS MFT TL SAC IT, Martha	Intake Mental Health/ATODA-90	Sep 11, 2017 10:00:00 AM
Cornelius-Adkins MSW LCSW SAC CSOT BCD, Torland E	Intake Mental Health/ATODA-90	Sep 25, 2017 3:00:00 PM
DeGroot, Jessica Lynn	Intake Mental Health/ATODA-90	Sep 19, 2017 9:00:00 AM
Exworthy MSW APSW CSAC, Susan M	Intake Mental Health/ATODA-90	Sep 12, 2017 2:00:00 PM
Helander MSW LCSW, Valorie	Intake Mental Health/ATODA-90	Sep 12, 2017 10:00:00 AM
Krueger MSW APSW CSAC, Rebecca	MH INTAKE (PRACTICUM)	Sep 28, 2017 10:00:00 AM
	Intake Mental Health/ATODA-90	Sep 12, 2017 10:00:00 AM
Shaw MSW LCSW, Lisa	Intake Mental Health/ATODA-90	Sep 28, 2017 8:00:00 AM

BH-Mental Health (C2)

Resource	Appointment Type	Next 3rd Open
Blanks MA LPC SAC IT, Heidi	Individual Therapy Session-60	Jun 30, 2017 1:30:00 PM
Brito, MS MFT TL SAC IT, Martha	Individual Therapy Session-60	Jul 18, 2017 4:00:00 PM
Cornelius-Adkins MSW LCSW SAC CSOT BCD, Torland E	Individual Therapy Session-60	Jul 27, 2017 7:30:00 AM
Helander MSW LCSW, Valorie	Individual Therapy Session-60	Jul 25, 2017 8:00:00 AM
Huhtala MSW LCSW, Rhonda	Individual Therapy Session-60	Aug 7, 2017 11:00:00 AM



BH - Access Of Care 3rd Available appointment

Resource	Appointment Type	Next 3rd Open
Shaw MSW LCSW, Lisa	Individual Therapy Session-60	Aug 2, 2017 2:00:00 PM

BH-EMDR Intakes

Resource	Appointment Type	Next 3rd Open
King MSW LCSW CSAC, Mary Beth	BH-EMDR Intake	Aug 14, 2017 1:00:00 PM
Shaw MSW LCSW, Lisa	BH-EMDR Intake	Aug 29, 2017 2:00:00 PM

BH-EMDR Therapy

Resource	Appointment Type	Next 3rd Open
Collier, Carmen D MS LPC CSAC	BH-EMDR Therapy	Jul 28, 2017 11:00:00 AM
King MSW LCSW CSAC, Mary Beth	BH-EMDR Therapy	Aug 1, 2017 2:00:00 PM
Shaw MSW LCSW, Lisa	BH-EMDR Therapy	Aug 23, 2017 7:30:00 AM

BH-Veteran Eval

Resource	Appointment Type	Next 3rd Open
Shaw MSW LCSW, Lisa	Veterans Evaluation	Aug 21, 2017 8:30:00 AM

BH-Intial Reiki Appointment

Resource	Appointment Type	Next 3rd Open
King MSW LCSW CSAC, Mary Beth	Reiki	Aug 3, 2017 2:00:00 PM
Lalonde BS CSAC, Scott	Reiki	Jul 28, 2017 7:30:00 AM
Shaw MSW LCSW, Lisa	Reiki	Aug 29, 2017 10:30:00 AM

BH-Psych Evals

Resource	Appointment Type	Next 3rd Open
Sayers PHD, Michael	Psychological Evaluation	Jul 13, 2017 8:30:00 AM



BH - Access Of Care 3rd Available appointment

Resource	Appointment Type	Next 3rd Open
Trail PsyD Sharyl	Psychological Evaluation	Jul 7, 2017 1:00:00 PM

BH- Psych Eval FU

Resource	Appointment Type	Next 3rd Open
Sayers PHD, Michael	Psychological Eval Follow Up	Jun 30, 2017 3:00:00 PM

BH-Child Evals

Resource	Appointment Type	Next 3rd Open
Dzubinski MD, David L	BH-Child Eval	Sep 19, 2017 1:00:00 PM

BH-Child Med Checks

Resource	Appointment Type	Next 3rd Open
Dzubinski MD, David L	BH-Child Med Check	Aug 8, 2017 7:00:00 AM

BH-Adult Evals

Resource	Appointment Type	Next 3rd Open
ONeill, MD, Michael	BH-Adult Eval	Oct 19, 2017 9:00:00 AM
Patil MD, Veeranagouda	BH-Adult Eval	Sep 27, 2017 1:00:00 PM
Rodriguez MD, Josefina	BH-Adult Eval	Sep 22, 2017 4:00:00 PM

BH-Med Checks

Resource	Appointment Type	Next 3rd Open
ONeill, MD, Michael	BH-Medication Check	Sep 19, 2017 9:15:00 AM
Patil MD, Veeranagouda	BH-Medication Check	Aug 15, 2017 2:00:00 PM
Rodriguez MD, Josefina	BH-Medication Check	Jul 28, 2017 5:30:00 PM

BH-RN Triage Assessment



BH - Access Of Care 3rd Available appointment

Resource	Appointment Type	Next 3rd Open
Paluch MSE RN LPC, Dave	RN-Psychatric Nursing Assessment	Jul 26, 2017 9:30:00 AM
Skrivanie MSN RN, Lois	RN-Psychatric Nursing Assessment	Jul 27, 2017 10:00:00 AM

BH-Eval FU

Resource	Appointment Type	Next 3rd Open
Dzubinski MD, David L	BH-Eval FU	Oct 12, 2017 3:00:00 PM
ONeill, MD, Michael	BH-Eval FU	Sep 19, 2017 10:45:00 AM
Patil MD, Veeranagouda	BH-Eval FU	Sep 1, 2017 1:30:00 PM
Rodriguez MD, Josefina	BH-Eval FU	Aug 4, 2017 5:00:00 PM

Sun

Mon

Tue

Wed

Thu

Fri

Sat

E



1
9am Manicures
1:30 Board Games
3:30 Balloon
Volley Ball

2
9 1-1 Visits
10:30 Mexican Train
1:30 Movie/ PopCorn
4pm Great Outdoors

3
9 1-1 Visits
10:30 Card Club
1:30 Great Outdoors
Trivia/Reminisce

4 9:30 Catholic
Communion
10:30 Coffee Social
1pm Methodist Service
Oneida Singers
1:30 Arts/Crafts
3:30 1-1 Visits

5
9 1-1 Visits
10:30 Dice Games
1:30 Bowling
3:30 Great Out doors/
Trivia/Reminisce

6
9am 1-1 Visits
10:30 Oneida Library
1:30 Great Out doors
Trivia/Reminisce
3pm Horse Race



7
8 Beauty /Barber Shop
9 1-1 Visits
10:30 Sit N Be Fit
1:30 Great Outdoors /
Trivia/Reminisce
2:30 BINGO

8
9am Manicures
1:30 Board Games
3:30 1-1 Visit

9
9 1-1 Visits
10:30 Farkle
1:30 Movie/ Pop Corn
4pm Great Outdoors
Trivia/Reminisce

10
9 1-1 Visits
10:30 Card Club
1:30 Great Outdoors
Trivia/Reminisce
3pm BINGO

11
9:30 Catholic
Communion
10:30 Coffee Social
1:30 Board Games
3:30 1-1 Visits

12
9 1-1 Visits
10:30 Dice Games
1:30 BINGO
3:30 Great Out doors
Trivia/Reminisce

13
9am 1-1 Visits
10:30 ZUMBA
1:30 National
Parks DVD
3:30pm Colorama

14
8 Beauty /Barber Shop
9 1-1 Visits
10:30 Sit N Be Fit
1:30 Great Outdoors
Trivia/Reminisce
2:30 BINGO

15
9 Making Dog
Biscuits
1:30 Board Games
3:30 Book Club

16
10am ..
Just for Men
1:30 Movie/ Pop Corn
4pm Great Outdoors
Trivia/Reminisce

17
9 1-1 Visits
10:30 Card Club
1:30 Great Outdoors
Trivia/Reminisce
3pm BINGO

18 9:30 Catholic
Communion
10:30 Coffee Social
1:30 Arts/Crafts
3:30 1-1 Visits



19
9 1-1 Visits
10:30 Dice Games
1:30 Bowling
3:30 Great out doors
Trivia/Reminisce

20
9am 1-1 Visits
10:30 Riverview Song
Service
1:30 Great Out doors
Trivia/Reminisce
3:30pm Colorama



21
8 Beauty /Barber Shop
9 1-1 Visits
10:30 Sit N Be Fit
1:30 Great Outdoors
Trivia/Reminisce
2:30 BINGO

22
9am Manicures
1:30 Board Games
4pm Episcopal
Service



23
9 1-1 Visits
10:30 Mexican Train
1:30 Movie/ Pop Corn
4pm Great Outdoors
Trivia/Reminisce

24
9 1-1 Visits
10:30 Card Club
1:30 Great Outdoors
Trivia/Reminisce
3pm BINGO

25
9:30 Catholic
Communion
10:30 Coffee Social
1:30 Board Games
3:30 1-1 Visits

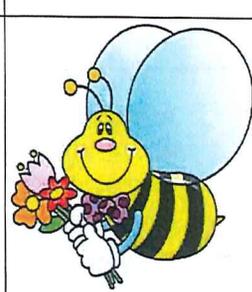
26
9 1-1 Visits
10:30 Dice Games
1:30 BINGO
3:30 Great Out doors
Trivia/Reminisce

27
9am 1-1 Visits
10:30 Resident Council
1:30 Great Out doors
Trivia/Reminisce
3:30pm Colorama

28
8 Beauty /Barber Shop
9 1-1 Visits
10:30 Sit N Be Fit
1:30 Great Outdoors
Trivia/Reminisce
2:30 BINGO

29
9am Manicures
1:30 Board Games
3:30 1-1 Visits

30
9 1-1 Visits
10:30 Farkle
1:30 Movie/ PopCorn
4pm Great Outdoors
Trivia/Reminisce



Sun Mon Tue Wed Thu Fri Sat

<p><i>Tuesdays ..</i> 3pm .. Pet Therapy with Joan & Emma 5pm . Devotions with</p>	<p><i>Tuesdays ..</i> 6:30pm .. Bible Study with Charleen</p>					<p>1 9am 1-1 Visits 10:30 Card Club 1:30 Great Outdoors Trivia/Reminisce</p>
<p>2 9am Catholic Communion 10:30 Coffee Social 1pm Methodist & Oneida Singers 1:30 Board Games 3:30 Great Outdoors</p>	<p>3 9am 1-1 Visits 10:30 Dice Games 1:30 Bowling/Wii 3:30 Great Outdoors Trivia/Reminisce</p>	<p>celebration 10am Sing-a-long 2:30pm Ping Pong Toss</p>	<p>5 8am Beauty & Barber Shop 9am 1-1 Visits 1:30 Sit N Be Fit 2:30 BINGO</p>	<p>6 9am Manicures 1:30 1-1 Visits 3pm Horse Race</p> 	<p>7 9am 1-1 Visits 10:30 Mexican Train 1:30 Movies & Pop Corn 4pm Great Outdoors</p>	<p>8 9am 1-1 Visits 10:30 Card Club 1:30 Great Outdoors Trivia/Reminisce 3pm BINGO</p>
<p>9 9am Catholic Communion 10:30 Coffee Social 1:30 Board Games 3:30 Great Outdoors</p>	<p>10 9am 1-1 Visits 10:30 Dice Games 1:30 Great Outdoors 3pm BINGO</p>	<p>11 9am 1-1 Visits 10:30 ZUMBA 1:30 Great Outdoors 3pm Entertainment By Bobby Solberg 6pm Cornelius Cousins Oneida Singers</p>	<p>12 8am Beauty & Barber Shop 9am 1-1 Visits 1:30 Sit N Be Fit 2:30 BINGO</p>	<p>13 9am Making Dog Biscuits 1:30 Book Club 3pm Balloon Volley Ball</p>	<p>14 9am 1-1 Visits 10:30 FARKLE 1:30 Movies & Pop Corn 4pm Great Outdoor</p>	<p>15 9am 1-1 Visits 10:30 Card Club 1:30 Great Outdoors Trivia/Reminisce 3pm BINGO</p>
<p>16 9am Catholic Communion 10:30 Coffee Social 1:30 Board Games 3:30 Great Outdoors</p>	<p>17 9am 1-1 Visits 10:30 Dice Games 1:30 Bowling/Wii 3:30 Great Outdoors Trivia/Reminisce</p>	<p>18 9am 1-1 Visits 10:30 Riverview Song Service 1:30 Great Outdoors 3pm COLORAMA 6:30 Bible Study with</p>	<p>19 8am Beauty & Barber Shop 9am 1-1 Visits 1:30 Sit N Be Fit 2:30 BINGO</p>	<p>20 9am Manicures 1:30pm "Happy Hour" 3pm Board Games</p>	<p>21 9am 1-1 Visits 10:30 Mexican Train 1:30 Movies & Pop Corn 4pm Great Outdoor</p>	<p>22 9am 1-1 Visits 10:30 Card Club 1:30 Great Outdoors Trivia/Reminisce 3pm BINGO</p>
<p>23 9am Catholic Communion 10:30 Coffee Social 1:30 Board Games 3:30 Great Outdoors</p>	<p>24 9am 1-1 Visits 10:30 Dice Games 1:30 Great Outdoors 3pm BINGO</p>	<p>25 9am 1-1 Visits 10:30 Resident Council 1:30 Great Outdoors</p>	<p>26 8am Beauty & Barber Shop 9am 1-1 Visits 1:30 Sit N Be Fit 2:30 BINGO</p>	<p>27 9am Manicures 1:30 1-1 Visits 4pm Episcopal Service</p>	<p>28 9am 1-1 Visits 10:30 FARKLE 1:30 Movies & Pop Corn 4pm Great Outdoor</p>	<p>29 9am 1-1 Visits 10:30 Card Club 1:30 Great Outdoors Trivia/Reminisce 3pm BINGO</p>
<p>30 9am Catholic Communion 10:30 Coffee Social 1:30 Board Games 3:30 Great Outdoors 6pm Cornelius Cousins Oneida Singers</p>	<p>31 9am 1-1 Visits 10:30 Dice Games 1:30 Bowling/Wii 3:30 Great Outdoors Trivia/Reminisce</p>					

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 7 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Approve Development Branch 3rd Quarter Report for FY'17.

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="2017-Q3-Development Quarterly-Development B"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Troy D. Parr, Development Branch Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Approve Development Branch 3rd Quarter Report for FY'17.

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org



ONEIDA

Development Division

Development Branch

Troy D. Parr, AIA
Development Branch Director

FY`17, 3rd Quarter Report
April, May & June 2017

Revised: 7/18/17

Development Division – Renewed Vision & Mission

Below are some highlights of FY '17, Third Quarter Development Branch work efforts:

Economic Development through Land Development

Effort continues to be put forth to explore to new sources of external revenue and job creation. Commercial Land leasing continues to be a very low-risk, low-to-moderate yielding revenue source. Through effective Land-Use planning, we continue to present potential Commercial Land Lease opportunities to the Oneida Land Commission for consideration.

Updating the Development Division

During the Third Quarter of FY 17, the OBC approval planning work was produced to complete the formal split of the Development Division into two separate Divisions. The Development Division had two branches – the Operations Branch and the Development Branch. These two branches have operated effectively for the past 5 years. Over the past 3 years, the Division continued a reporting structure as a single division; however, for all intents and purposes operated more effectively and efficiently as separate branches. These branches were presented to the Oneida Business Committee for review consideration as separate Divisions late in the Third Quarter of FY '17 thus creating our new division – the Community & Economic Development Division (CEDD) and the new Division of Public Works.

As part of the launch of the Community & Economic Development Division, the Management Team developed a new Divisional Vision & Mission that more accurately reflect the services we provide to the Oneida People. We look forward to continuing to serve the Oneida Nation and provide the professional development services that will continue to strengthen and build the great Oneida Nation.

Yaw^ko,
Troy D. Parr, AIA
Oneida Architect

VISION & MISSION:**CEDD Vision**

To elevate the Oneida Nation by providing community & economic development practices that nurture and sustain Oneida families to prosperity.

CEDD Mission

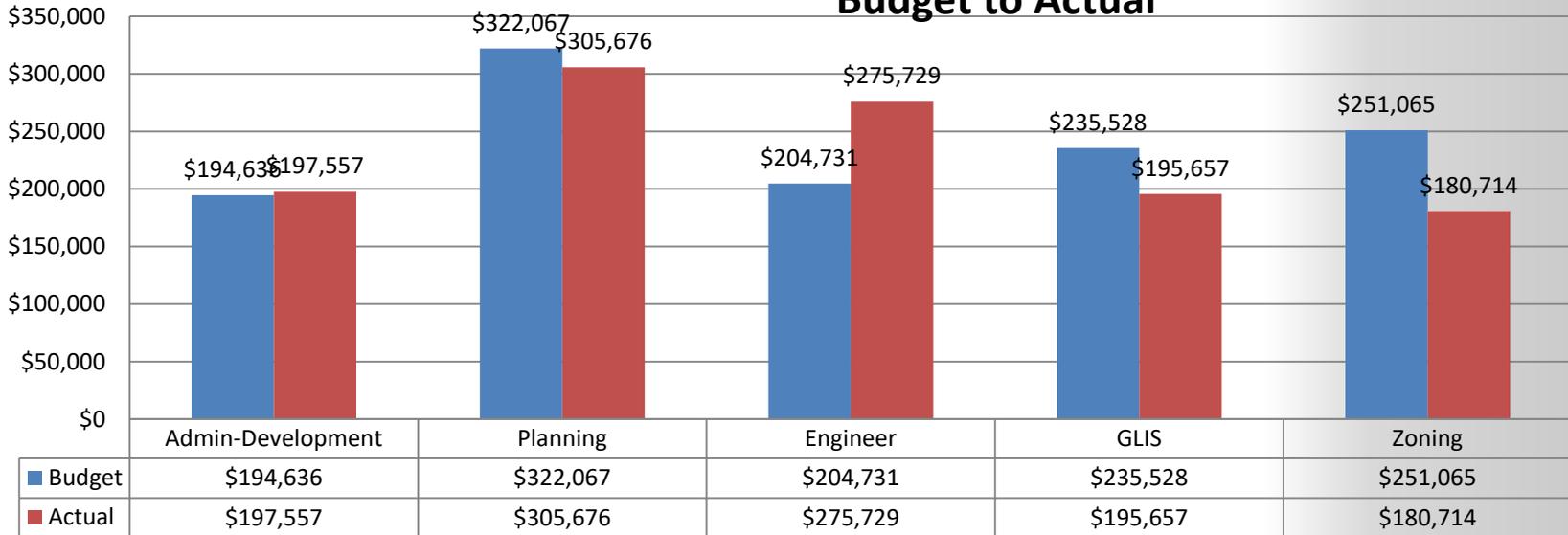
To strategically implement systems that foster sustainable development and commerce growth that reflect Tsi' niyukwalihota (our ways) with innovative approaches that enrich the natural, built and business environments.

This information reported is for the 2nd Quarter of the Fiscal Year (January, February and March 2017).

Department	Budget	Actual	Variance	%
Administration	\$194,636	\$197,557	-\$2,921	-1.50%
Planning	\$322,067	\$305,676	\$16,391	5.09%
Engineering	\$204,731	\$275,729	-\$70,998	-34.68%
GLIS	\$235,528	\$195,657	\$39,871	16.93%
Zoning	\$251,065	\$180,714	\$70,351	28.02%
Total FY17	\$1,208,027	\$1,155,333	\$52,694	4.56%

Development Division, Development Branch –
FY 17 (3rd Quarter)
4.65% better than budget

**Development Division, Development Branch - FY17 Quarterly
 Budget to Actual**



Development Division - (Departmental Updates)

▪ Engineering:

We are managing the various CIP, Non-CIP, OHA, and other miscellaneous projects. We provide assistance to the Zoning Department with plan reviews for code compliance. In addition, we help various Tribal Departments with design and construction coordination for minor interior remodel projects. Major projects are identified in listing above. (James Petitjean – Interim Assistant Division Director; Paul Witek - Senior Architect.)





Contact Paul Witek

Office: 920-869-4543

- Residential Home Sites
- Health Center Miscellaneous
- Elder Services / Apartments Improvements
- Social Services Building Remodel – Phase V
- Oneida Nation High School
- Cemetery Improvements
- Oneida Nation Farms Manure Pit
- Early Head Start Facility
- Oneida Golf Enterprise Remodel – Phase II
- Water Main Loop
- NHC Remodeling – Phase VIII
- Business Park Storm Water
- Oneida Fishery Restoration – Phase II
- Solar Electric Deployment, assistance
- Tribal Transportation Program, assistance
- Elder Homes Repair
- Beechtree Lane Extension
- Main Casino Exterior Enhancements
- Mason Street Casino Exterior Enhancements
- O.F.F. Facility Improvements
- Oneida Recreation Complex
- OCHC Satellite Pharmacy - AJRCCC
- Tsyunhehkwa Storage/Shelter
- Elder Village Cottages – Phase II
- Uskah Village Apartments – Phase II
- W. Mason C-Store Renovation
- Oakwood Court House Reconstruction
- ONSS – Accessibility Renovations
- Miscellaneous Small Projects

- Planning & Statistics Projects

Central Oneida Area Development Plan- Assisting with transportation improvements in Central Oneida to include a proposal for the Oneida Life Sustenance Community Center, sidewalk improvements, events space, a park and ride for the Duck Creek Trail, streetscape and a public plaza. Status: Ongoing community engagement, grant writing and working the Bureau of Indian Affairs Roads Program.

Model Housing Initiative – Assisting the Oneida Housing Authority to design and construct a series of affordable starter homes for one and two person households. The house design shall have the ability to be modified or expanded as the occupant(s) needs change. Status: Concept.

Community Trails – Assisting in the development of a comprehensive trail system. Status: Exploring the possibility of a Safe Routes to School Planning Grant through the State of Wisconsin for the next phase of the project. It includes a trail from the Turtle school to the Flying Leaf Neighborhood(Site 2). Status: Developing draft work plan that include phases and a time line for future development.

- Planning & Statistics Projects

Apple Orchard Improvements - The Oneida Apple orchard is a center of tourist activity in the summer time with Apple Fest as its main event. Improvements to the facility such as parking, access points in and out of the apple orchard compound, replacing old trees, and production facilities is needed to continue to be community asset. Status: Project Planning Phases

Central Oneida Food Hub-Working with Governmental Services Director on a Food Hub Development Plan.

Agriculture Strategy – Assisting the Agriculture Strategy team with visuals, info graphics, maps, power point presentation and proposed Agriculture Strategy booklet. Introducing the Oneida Food Sovereignty Initiative that includes proposing incremental improvements to how we produce and provide white corn, buffalo meat, beef, and apples in the Oneida Community. Status: On-going

- Planning & Statistics Projects

Survey – The Community Health Survey was a success, there were 788 responses total. As a team we were able to contribute all the data in a power point presentation to present to the public. This is one of the biggest surveys distributed to the community and the entire team shares in the success of coordination, implementation and final results.

Community Outreach- Coffee with planner's has been brought back. We held our first one on June 22, 2017. This group while small gave the planning department some valuable information. The focus of this first meeting was too re-introduce the Planning department and get input on how to further communication, educate, and develop the future coffee with the planners. We currently have additional meeting set up and will continue to notify the community of our locations and topics.

ICDBG (Indian Community Development Block Grant) – The Grant Application was successfully submitted for the Upper Oneida Project. We currently are awaiting a decision which should come in October. Efforts to continue work with the Upper Oneida space for future programming events is a focus in the Planning Department.

- Planning & Statistics Projects

We had the pleasure of an additional staff member: Intern Dakota John. He is a student from the University of Steven's Point and his study is in interior Architecture. He has 3 semesters or 11/2 years left of school. He has been able to work with Planning, GLIS, Zoning and Engineering throughout his stay to get a full view of how Projects and Concepts are created and completed. It was a pleasure having him here.

Planning completed the budget for 2018, with specific emphasis on the Comprehensive Plan and Vision Oneida. We have also begun to work with On base for electronic storage. This will be a big project but it is our main objective to reorganize the planning projects to a central location.

GLIS

The struggle to find a replacement for the Administrator has been a work in progress. MIS and GLIS are working together to keep the system running and updated without interruption of services. A team has been assembled from MIS to work with GLIS on a regular basis and address concerns as they arise. Overall, this has been working.

Development Division (Departmental Updates)

ZONING

Zoning is currently full staffed.

There are currently 48 ongoing projects. A few major projects are The Sam's Club renovation which is ongoing, Uskah Village Phase 2 which is ongoing, Thornberry Remodel which is complete and Grand Central Station renovation which is ongoing.

This past quarter 30 Building Permits were issued: 14 Land Use Permits were issued and 1 Sanitary Permit was issued.

Zoning has received 19 property complaints which have been investigated and forwarded for additional enforcement if required.

On May 30th the Oneida Gaming Commission recognized Senior Inspector Larry Cornelius and staff for Facility License and their continued excellence in performing the necessary job duties and accepting accountability to ensure minimum internal control requirement are in compliance.

Mariea King has been added to the Zoning Staff and has filled the Permit Processor position on a LTE basis for one year. Welcome Mariea, she has been doing a great job.



Development Division (Departmental Updates)

Transportation Planning

Beechtree has wrapped up near Site II on July 5, 2017. The road extends the current Beechtree rd east connecting to highway H. The road also connects to Green Earth Trailer Park on Six Nation Drive. Scope of work consisted of a fenced in wet pond, curb and gutter, stripping and signage. A flashing beacon for safe crossing will be installed on August 1, 2017.

The following roadways will be receiving grading HMA pavement and drainage improvements beginning September 1, 2017:

Aliskwit Ct

Ranch Rd (2 Miles)

Town Rd (End portion)

Metoxen Rd

Powless Rd

Takwatekha Rd

Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

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Agenda Header: Reports

Accept as Information only

Action - please describe:

Accept and approve the Department of Public Works 3rd quarter 2017 report

3. Supporting Materials

Report Resolution Contract

Other:

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3. [Empty text box]

2. [Empty text box]

4. [Empty text box]

Business Committee signature required

4. Budget Information

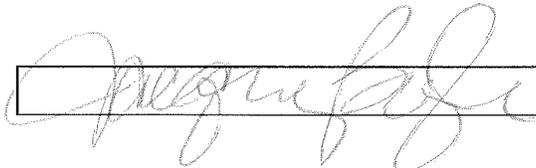
Budgeted - Tribal Contribution

Budgeted - Grant Funded

Unbudgeted

5. Submission

Authorized Sponsor / Liaison:



Primary Requestor/Submitter:

Jacque Boyle, Interim Assist. Dev. Division Director

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

To accept and approve the Department of Public Works 3rd Quarter 2017 report.

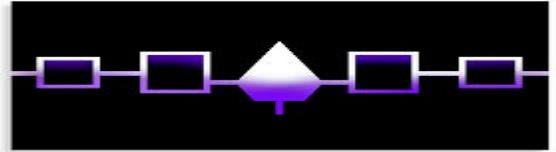
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3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org



A good mind. A good heart. A strong fire.



ONEIDA NATION DEPARTMENT OF PUBLIC WORKS DIVISION

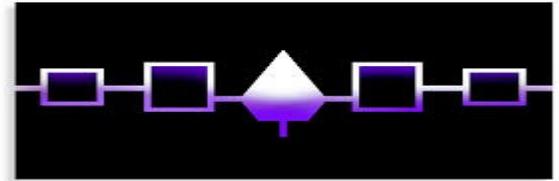


2017 3rd Quarter Report





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Automotive

The most important provisions for the Oneida Nation is safe operations of vehicles used for the Nation's business to remain operational to their full potential. This is done by scheduled maintenance and repairs of departmental vehicles.

Community Wells & Septic, Plumbing

To upgrade the standard of living by providing complying Septic Systems and potable water supply from Private Wells. To be the first line of defense against disease prevention.

Custodial

The DPW custodial department maintains all non-gaming Oneida Nation occupied buildings in a clean, sanitized, and safe environment through teamwork, communication, and quality customer service.

Facilities, Maintenance

The facilities department provides preventative and regular maintenance, remodeling, fire and security monitoring, event coordination, and departmental moves for 80+ buildings and their departments.

Grounds Keeping

The overall maintenance of all of the Oneida Nation's grounds, roads, landscaping, and 24 hour snow removal along with Tribally owned roads is the mission of the Grounds Keeping Department.

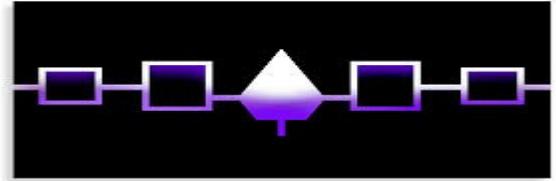
Utilities

Provide safe drinking water and environmentally safe wastewater treatment and septage removal. Provide billing for sewer and water, septic removal and refuse/recycling services.



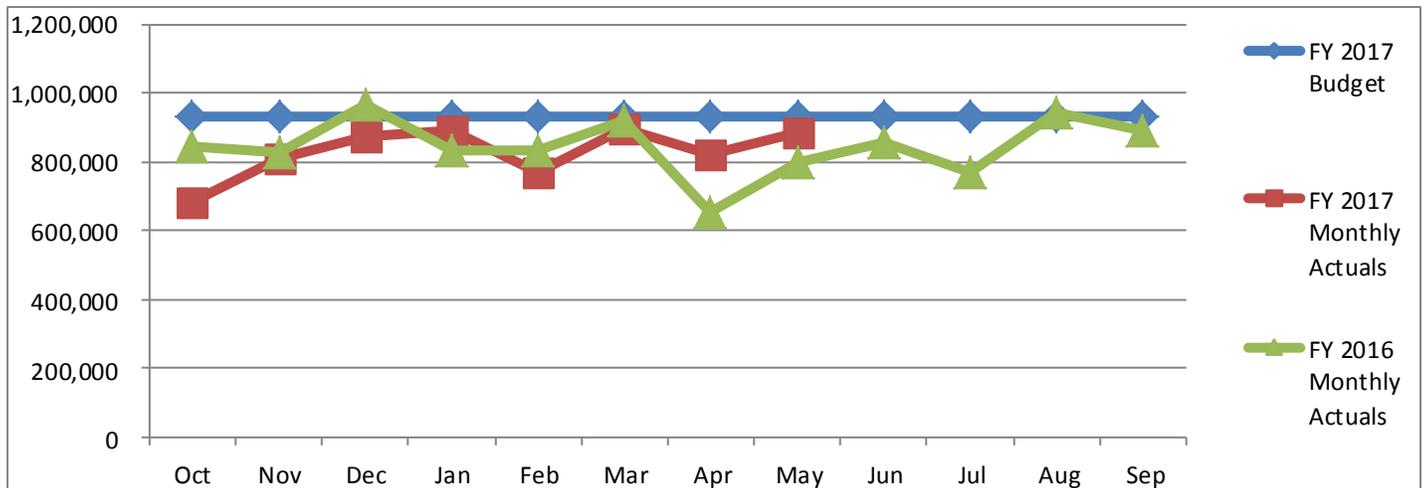


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Department of Public Works Financials

Budget versus Actuals

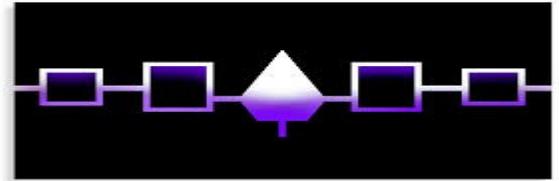


- YTD Actuals as of May are at an \$820,269 positive variance versus YTD Budget which is approximately an 11% variance.
- Major contributing factors to the positive variance are vacant positions, medical leaves, and implementation of trade back for cash to occur later this year.
- Reorganization efforts have also created shared positions, efficiencies, and increased or improved services.
- Project implementation was delayed until the FY17 budget was approved and there are several projects currently in progress.



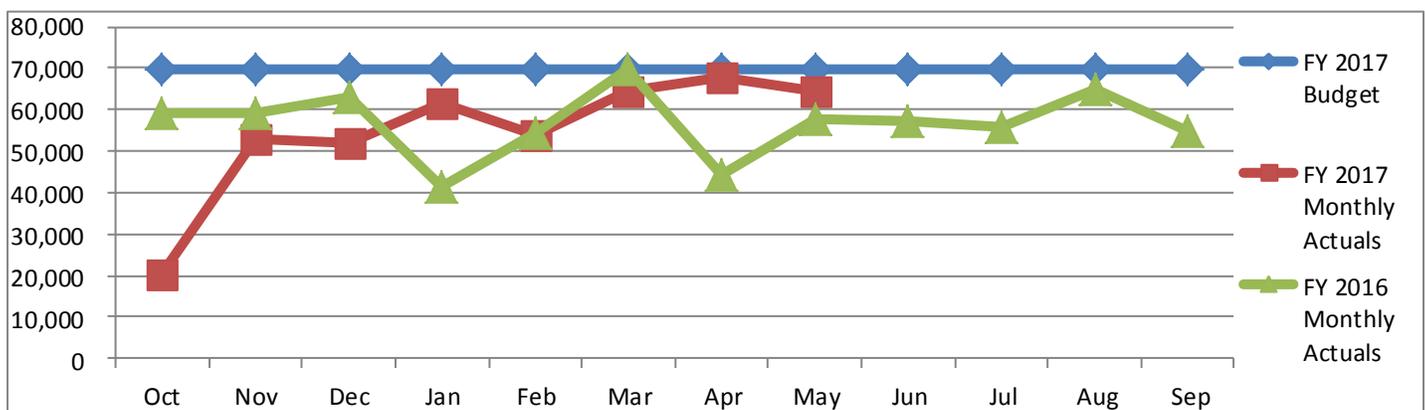


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Department of Public Works

The Department of Public Works Administration provides services and support for all of DPW Business Units, internal and external customers. We provide administrative services, budget and financial support services, community services, continuous improvement, customer services, fleet vehicle services, human resources services, safety awareness, and training services.



DPW has worked with HRD and various other departments in placing interns and current employees in areas which they have a career interest and/or related degrees. This has worked out quite well to give recent graduates and students experience in their field of study. This is one initiative that is contributing to the succession planning that not only our Department is concerned about, but the overall organization. In doing this, it allows employees to gain the necessary experience to qualify for vacant positions. We will also be working with the High School this fall to develop a student employment program to possibly fill part time vacancies in custodial and grounds keeping.

Completion of capital expenditure projects has been a major focus for DPW in this past quarter and will continue all of 4th quarter. Various building projects have been completed including reroofing, replacing flooring, and replacing HVAC equipment.

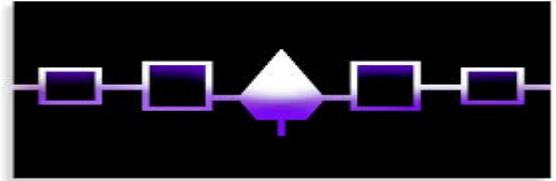
This past quarter, there were additional resources devoted to Grounds Keeping and Landscaping efforts at the various buildings, mainly Turtle School, AJRCCC, and most recently NHC. Building Assessments were used to determine the priorities to be worked on at each site and plans/schedules created to complete them. In addition, DPW has taken on the responsibility of maintaining the HWY 54 bridge area weekly mowing to improve appearances in this area.

The custodial area has continued their assessment and evaluations utilizing industry standards throughout the operation to determine staffing levels, cleaning procedures, and training needs. One of the on going challenges in this department is in meeting staffing needs. This is due to personnel leaving employment for higher wages being offered elsewhere, very few candidates applying for vacant positions, high rate of medical leaves, and retiring employees.

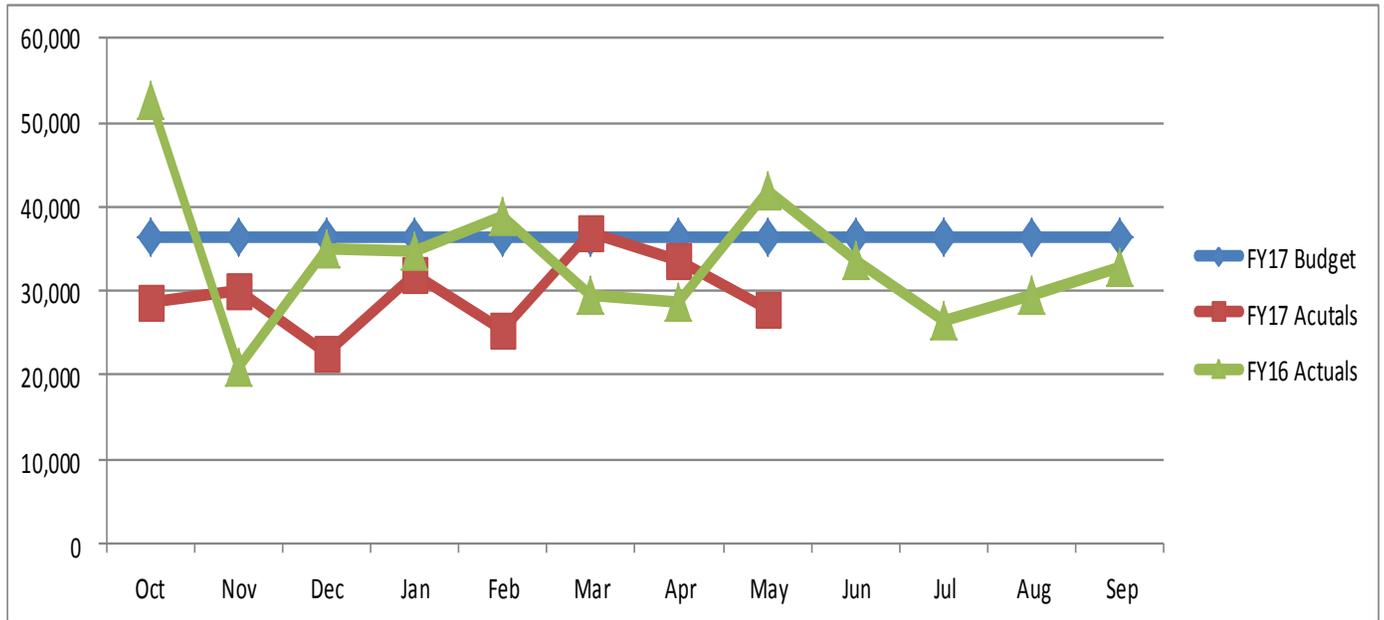




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Automotive Department



3rd Quarter Services

Automotive Work Orders Completed: 297

Vehicle Requests: 79

Fleet Detailing: 153

Property, Equipment, Vehicle Incident Reports: 8

Program Alignment Summary

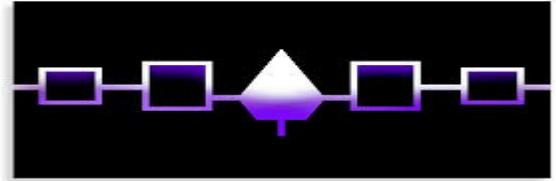
Alignment	Description	Status
Committing to Building a Responsible Nation	Implement Archibus System for inventory	Parts/Supplies data are being entered into the system. Approximately 15% complete.



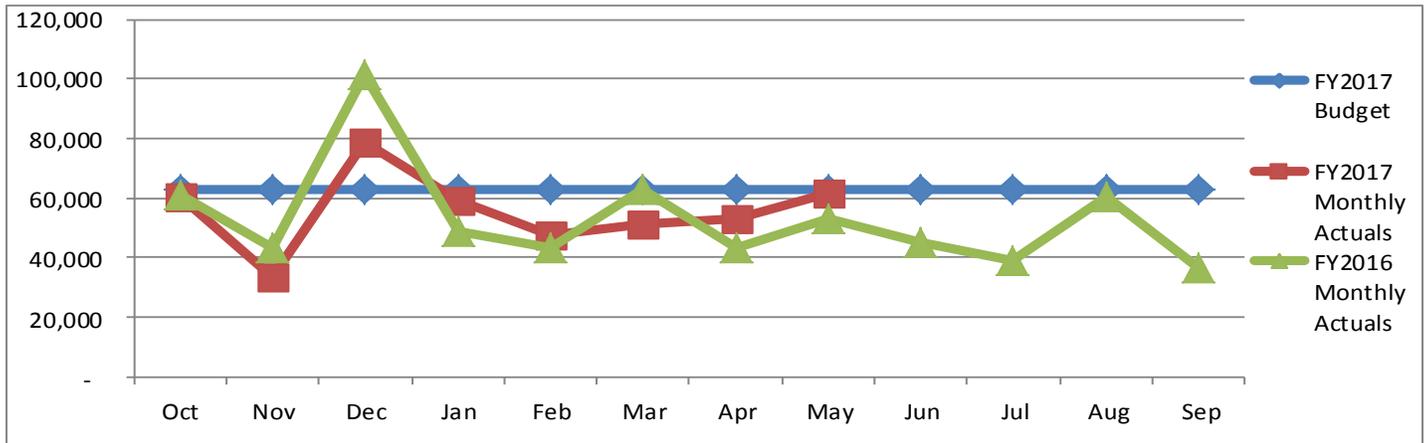


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Community



Wells and Septic, Plumbing



Projects

Description	Status
IHS Project BE-13-J05	3 well drilling, 3 test pumps
IHS Project BE-15-J50	12 sites to serve this year
IHS Project BE-12-G98	7 new HBO sites open (no applicants yet) Remaining work for this project
POWTS Improvement & Inventory	353 POWTS Evaluation Sites

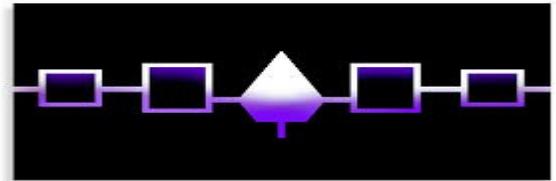
Program Alignment Summary

Alignment	Description	Status
Commitment to Building a Responsible Nation	CWS & Plumbing Repairs	59 Septic System Plumbing Repairs
	Other Calls for Repairs	31 Water Supply/Well Repairs
		34 Other Repairs (not well & septic)
Commitment to Building a Responsible Nation	Engineering CIP Project #	S&W connections at Metoxen Lane, Oska
	Farm Project	Village S&W connections. Farm Barn
	Oneida Cemetery	Project install storm drain, Weekly water
	Conservation Staging Area	height check at OC.
	Oneida Lake Bathroom Facilities	
Commitment to Building a Responsible Nation	Tribal Building Facilities Plumbing projects, repairs and services	34 Work Orders
Commitment to Building a Responsible Nation	Other: Elder Services, Housing Authority, DOLM Sites	28 Work Orders

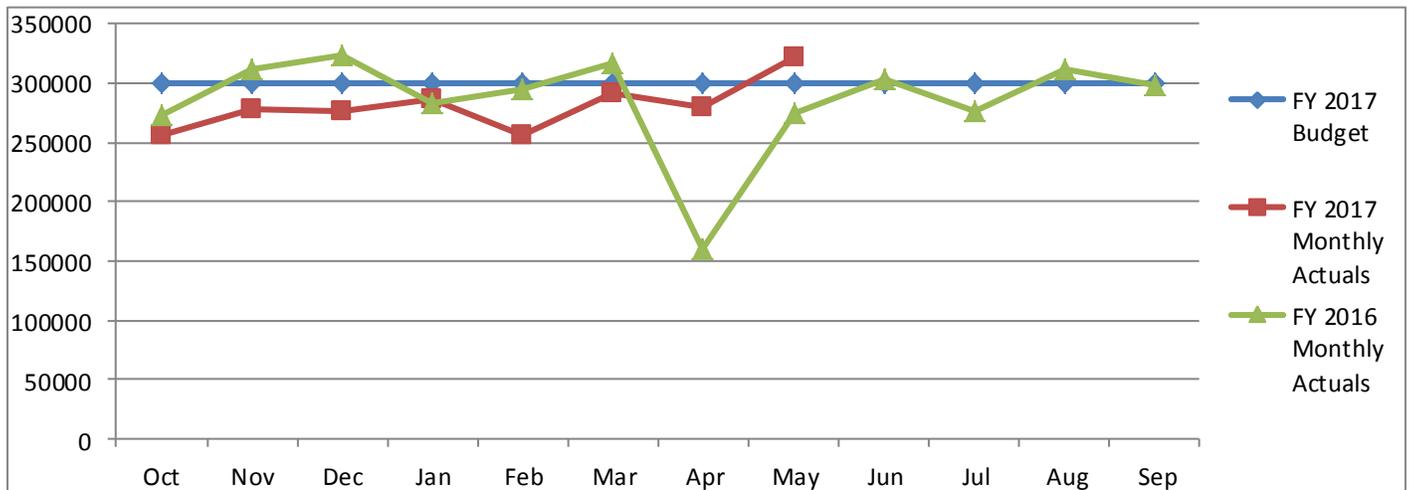




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Custodial Department



Projects/Services

Description/Project

Status

Equipment

Received price and ordered Scrubbing Machine for the OCHC

Ordered a small scrubbing machine to clean

Schools Summer cleaning

Headstart. ONES and NHC High School are

Flooring at Retail Outlets

Coordinating Team to focus on floor care and Oneida One Stops

Program Alignment Summary

Alignment

Description

Status

Create a Positive Organizational Culture

Develop Training Program

Determine procedures to be included and specific to each building

Commitment to Building a Responsible Nation

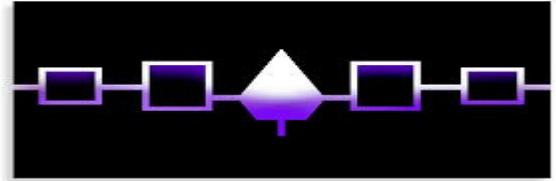
Define Building Cleaning Standards

Custodial team is meeting to update handbook, and began using it for orientation of new employees

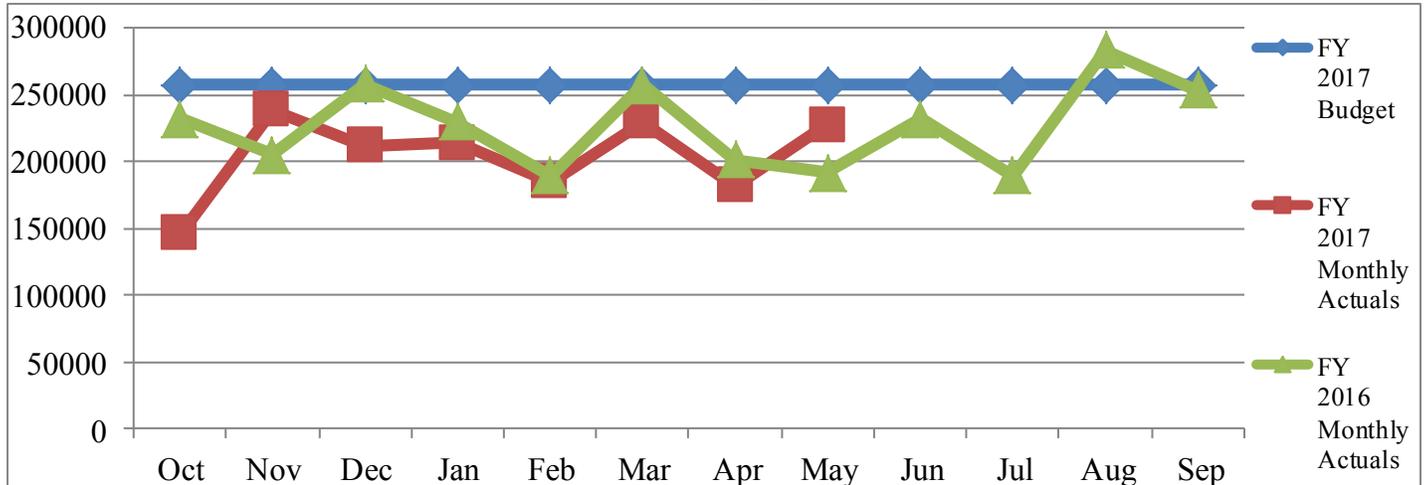




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Facilities Department



Initiatives/Projects

Projects

West Mason Casino , Budget, Social Services Bldg., Early Headstart, Solar Deployment, ARCHIBUS, Old Accounting bldg. boiler replacement, NHC N. Wing scope of work, Mason Street C-Store project.

Training

Four (4) trainings, ALICE (Turtle School), BIE Requirements, Carrier Controls Expert CS 1

Repairs and Maintenance

Control Access, Security Systems, HVAC Control, Inspections, Skenandoah, HVAC Thornberry Creek
 Work Orders: 627
 April 160
 May 262
 June 206

Program Alignment Summary

Alignment

Committing to building a Responsible Nation

Committing to building a Responsible Nation

Description

Completion or extension of funds to carryover to be able to complete Capital Expenditures.

Complete Facility Condition Assessments

Completed

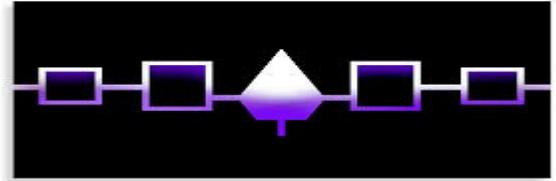
Started project and are working with budget office and team to work through issues.

Building Assessments continue to be completed with additional ones being

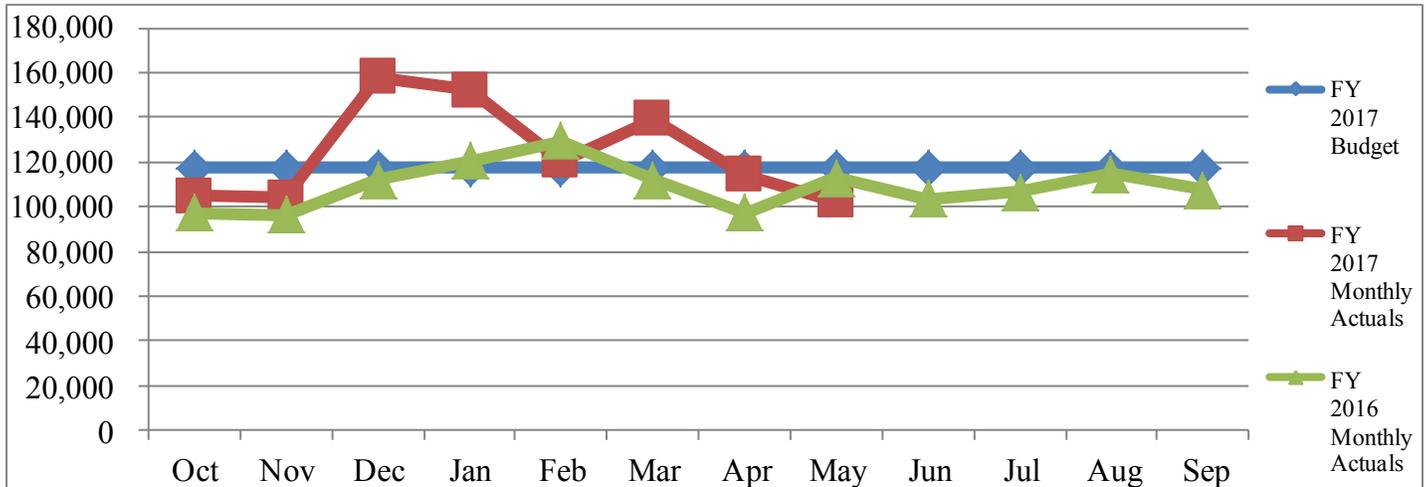




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Grounds Keeping Department



Projects/Services

Project/Services

Status

Beautification of Grounds Surrounding the Nation's buildings	Landscaping completed at Anna John, 172 Daycare, and Turtle School. Currently working at NHC and Farm.
Assets	Finishing the assets list to agree with asset manage-
Equipment	Purchased

Program Alignment Summary

Alignment

Description

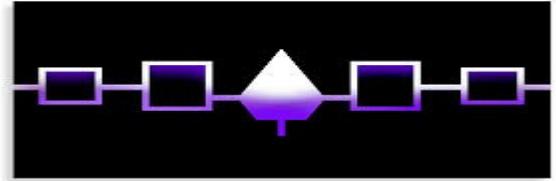
Status

Committing to building a Responsible Nation	Develop Standards for Buildings	Personnel, Routes, Equipment are being refined from last year.
Committing to building a Responsible Nation	Snow Removal Plans	Schedules, site layouts, logs updated from last year to become more efficient.
Committing to building a Responsible Nation	Lawn Maintenance	Continue to do assessments of various facilities.
Committing to building a Responsible Nation	Trucking	Completed 2 gravel pads for the farm.

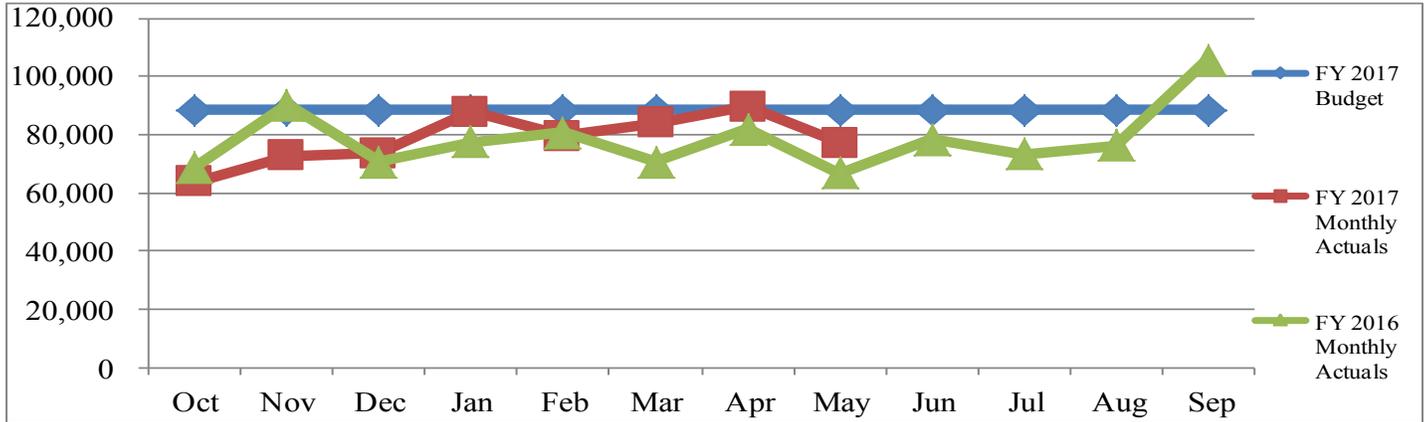




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Utilities Department



Services Provided

Service	Status
Work Orders	77 Completed
Locate Requests	243 Completed
Septic Pumping	160 Completed
Non-payment, Disconnections (April1-Oct. 31st only)	7 Disconnects

Program Alignment Summary

Alignment	Description	Completed
Committing to building a Responsible Nation	Public Water Legal Mandate/ Regulatory Compliance	EPA and Oneida Nation’s Public Water and Wastewater required weekly sampling and testing were completed and in compliance.
Committing to building a Responsible Nation	Public Sewer Legal Mandate/ Regulatory Compliance	EPA and Oneida Nation’s Public Water and Wastewater required weekly sampling and testing were completed and in compliance.



Oneida Business Committee Agenda Request

1. Meeting Date Requested: 07 / 27 / 17

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter:

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

Governmental Services Division

FY 2017 Third Quarter Report

George Skenandore, Division Director

DIVISION EXECUTIVE SUMMARY

The purpose of the Governmental Services Division (GSD) is to provide education and lifelong learning opportunities, programs, and services for individuals and families to further improve their wellbeing. The third quarter report of GSD reflects the continual high level of use of programs/services by community members of all ages. Program areas and the employees who serve in those areas continue providing quality customer care and services consistent with the mission, vision and values of the Nation as a whole. In an effort to improve operationally across the Division, performance assurance audits continue to occur with findings being followed up on as required to ensure that efficiencies and best practices are considered as part of program design and delivery of services. There are position vacancies being addressed to enhance the service to the customer/client base and the work teams that serve them. The budgeting process for FY2018-20 has been completed. We are thankful for the opportunity to serve the community and for the community's continual support throughout the years.

CULTURAL HERITAGE AREA

NARRATIVE	DEMOGRAPHICS		FREQUENCY/ UTILIZATION	BULLET POINTS	
<p>Cultural Heritage Administrative Offices identifies and develops initiatives to meet resolutions:</p> <p>09-25-84 A, 03-17-89 A, 05-04-90, 08-12-00C, 04-03-02 B, and 08-10-05 A</p> <p>using information from: the 2005-2025 Comprehensive Plan, the Quality of Life Reports, and Survey Responses.</p> <p>Our primary focus is on Developing, Implementing, Monitoring and Improving the following:</p> <p>1.) The 2 year intense initiative on Oneida Cultural Identity and Language Development,</p> <p>2) Assisting with a mentorship via the Rites of Passage,</p> <p>3) Social Development through various projects open to the public,</p> <p>4) Planning for the 2017 On^yote aka Gathering</p>	Base #:	130	Customers used Cultural Heritage Area Manager services 885 times in the 3rd Quarter of FY17	Presented Tsi? Niyukwalihó:ta participants to BC. 6 members are able to introduce themselves, their grandmother, clan, nation and location. They are working on an intermediate opening address.	
	AGE GROUPS				
	0-3:				
	4-9:	2			
	10-17:	10			
	18-30:	5	Social Media Counts:	Assisted Tetwanhatényes (RoP) participants to Akwesasne for fasting week. 1 nephew and 8 nieces fasted. Activities included: regalia making for 1st year fasters, fire starting, building healthy relationships, & about responsibility.	
	31-54:	61	1083		
	55-70:	40	Emails relating to services:		
	70+:	12	2710		
	Non-Oneida:		Phone calls relating to services:	Obtained food handlers license for fundraising events.	
	Unknown:		88		
PICTURES			Working to bring speakers to address Male and Female roles.		
				Received feedback for an audit requested 4-5 years ago. Began working on addressing the 10 areas of concern and completing action items by the end of this fiscal year according to the established time line.	
			Helped encourage the completion of the life-sized longhouse while MDA was recuperating.		
			Worked with MIS & Randall Cornelius to complete work for the 2nd Language Apple App to be completed this fiscal year.		
			Orientating new employees		
			Helped Behavioral Health with group work on tobacco and making tobacco pouches		

EDUCATION & TRAINING AREA**Arts**

NARRATIVE	DEMOGRAPHICS	FREQUENCY/UTILIZATION	BULLET POINTS
<p>Music from Our Culture: 7 Students, ages 8 – 14, performed for the Wisconsin Coalition Against Domestic Violence conference in Brookfield.</p> <p>Art Camp: The focus of the camp was the 3 Sisters and how to plant the garden. They created abstract paintings using shapes to denote the plants and various painting techniques to create visual. The end product is a wall hanging that will go in the CEC.</p> <p>Basket Guild: The Arts Program is working with the basket guild to do a series of workshops and a final display of Woodland Indian basketry.</p> <p>Art Classes: watercolor painting</p> <p>Summer Brochure and Online: The CEC, Arts Program and other tribal departments continue to work together in their marketing material. The summer brochure was sent out the end of April. To complement the brochure, the CEC unveiled its new website with online registration. We were unable to get online payment due to a number of issues. We are hopeful that we are able to fix this problem for the fall classes.</p>	<p>Base Number:</p> <ul style="list-style-type: none"> - 4478 unique audience members - 371 Tribal members/employees; 1962 students - 1,000+ listeners on WPNE Native Radio Hour 	<p>Art Camp: There were 30 students in camp, 24 students signed up, 3 came the day of, and 3 dropped in.</p> <p>One SEEDS residency in May.</p>	<p>Grants: \$10,000 (matched) grant from the NEA for Native song writing workshop + \$5,000 (unmatched) grant from First Nation's for training and equipment.</p> <p>Music Lessons: Dustin Skenandore is teaching 18 community members guitar and/or piano lessons for a fraction of the cost</p> <p>Untitled Book Festival: Louis Clark, III, an Oneida Literary Fellowship winner, presented at the festival. He did a wonderful presentation on his new book and was gracious to acknowledge the Oneida Nation Arts Program.</p>

Community Education

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
<p>The Community Education Center continues to develop community programs.</p> <p>Services include:</p> <ul style="list-style-type: none"> • Tutoring • GED and HSED assistance • Computer classes • Computer usage for job searches and personal use. • Copies and faxes • Community enrichment classes • Chess Club • Astronomy Club • Facility used for various meetings 	<p>Base Number:</p> <ul style="list-style-type: none"> - 2171 visits - 220 unique participants in classes, meetings, and trainings. <p>427 First time visits</p>	<p>447 people utilized the CEC 1597 times</p> <p>Approximately 74% were tribal members, 14% were Tribal Employee, 5% were other tribes; and 6% were non tribal.</p> <p>Customer satisfaction was 92%</p> <p>This was gathered through Survey Monkey and hard copy forms. We had 44 participants, with 25 electing to complete the survey.</p>	<ul style="list-style-type: none"> • Two students passed their college algebra class after having been tutored at the CEC. • Lego Robotic Camp - 6 kids • Chess Camp - 5 kids • The proto-type joint online registration process was introduced and the continued joint marketing. This took (and is taking) staff energy and time to create systems and correct systems as we work out the bugs. We are confident that this system will be a big improvement for all of the community services and activities.

Child Care

NARRATIVE		DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
<p>Since Sept. 1974, Child Care has serviced and continues to service the Oneida Community. Children are taken off the wait list by priority: Siblings being the highest, Oneida working for Oneida, Oneida not working for Oneida, Non-Oneidas working for Oneida and Non-Oneida not working for the Oneida Nation being the lowest priority.</p>		Base Number: 69	<p>Customers used the Child Care services 4278 times in the second quarter of FY17</p> <p>Month: 1,995 Weekly: 125 Daily: 66</p>	<ul style="list-style-type: none"> • Oneida culture and language opportunities in all classrooms 100% • Developmental Screenings: 100% • Healthy Meals monitored by OCHC-Nutrition Dept. 100% • Encouraging/Assisting children in developing their self-control • Assisting in developing children at their developmental stages. 100% • Grievance /Complaint process is still in process. It is in final LOC approval
Age	Wait list	AGE GROUPS Enrolled		
0-1:	17	0-1: O-6 NO-2		
1-2:	15	1-2: O-6 NO-2		
2-3:	24	2-3: O-15 NO-5		
3-4:	8	3-4: O-9 NO-3		
4-5:	13	4-5: O-8 NO-5		
Total: 77		69 = O-47 NO-22		

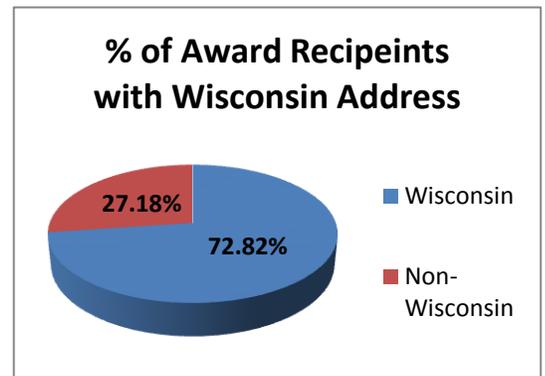
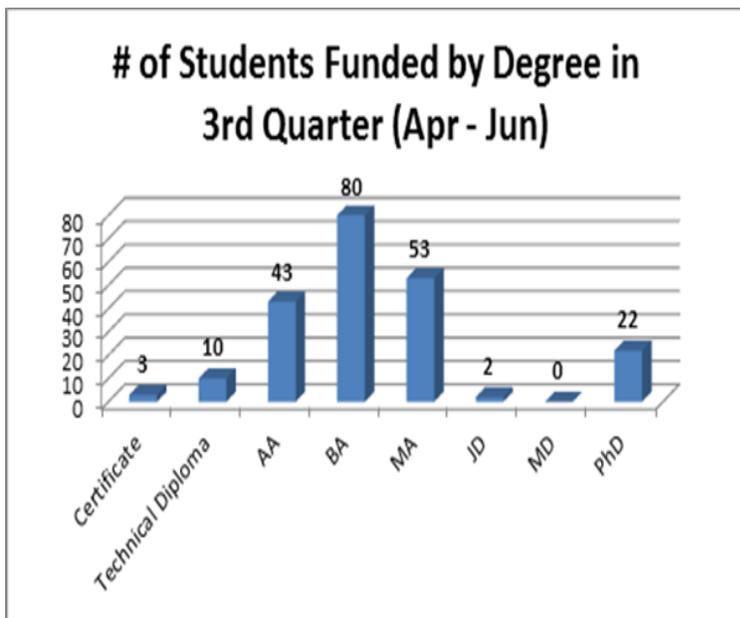
Please note: There are two 2-3 year old classrooms. Children are taken off the "Wait List" by the wait list team: 4 Supervisors, 1 Administrative Assistant and the Child Care Director

BIA Early Intervention

NARRATIVE	DEMOGRAPHICS	FREQUENCY/UTILIZATION	BULLET POINTS
<p>BIA Early Intervention provides services to infants, toddlers and young children with disabilities. These services are provided at several locations throughout the reservation and the following programs:</p> <ul style="list-style-type: none"> • FACE • Head Start and • Childcare. <p>All services to families and children are free, and services depend on the severity of the young child's disability. Children receive speech therapy, occupational and physical therapy and special education instruction. The program also offers advocacy services for children and parent education classes on early childhood topics throughout the year.</p>	<p>Base Number: 80 served</p> <p>Age 3-6: 46 total</p>	<p>1180 Total Membership or clients/ month</p> <p>49 children received direct therapy services in the 3rd quarter. The direct services included 784 therapy sessions that totaled 392 hours of therapy.</p> <p>The most common therapy is speech & language followed by occupation therapy.</p> <p>No direct therapy sessions in June.</p>	<ul style="list-style-type: none"> • Provided training to Childcare teachers in early literacy. • Direct services to children 3-6 years old up 18% • 87% of disabled 3 year olds, 91% of disabled 4 year olds and 100% of disabled 5 year olds receive Speech therapy • Referrals to Birth to 3 up 62%
<p>Birth to 3 State of Wisconsin Grant This grant supplies age appropriate books to children in the program.</p>	<p>35 Birth to 3 total Infants & Toddlers</p>	<p>45 books distributed this quarter to childcare</p>	<p>Therapy equipment provided includes: 5 point harness high chairs. Therapy peanuts, therapy toys & board books</p>

Higher Education

NARRATIVE	DEMOGRAPHICS	FREQUENCY/UTILIZATION	BULLET POINTS
<p>Higher Education operates from GTC Resolution (8-12-96 A) and strives to promote higher education for all Oneida citizens.</p> <p>The Oneida Higher Education grant is funded through a combination of Tribal Contribution (95.84%) and BIA funding (4.16%).</p> <p>Oneida Higher Education is funding degrees from certificates through professional level degrees including doctoral degrees with a goal towards self-sufficiency.</p>	<p>YTD Number of Students Funded: 821</p> <p>% of student's based in WI: 72.82 %</p>	<p># of Phone Calls/Emails: 1115</p> <p># of Walk-in Clients: 198</p> <p># of Checks Disbursed: 204</p> <p># of Missing Letters Disbursed: 847</p> <p># of Grades Processed: 362</p>	<p>Received \$4,387 grant from San Manual Mission Tribe for Fall College Fair on 9/28/17 at Thornberry Creek.</p> <p>High School Visits: 31 Students</p> <p>Probation Contacts/Outreach Efforts: 19/24 reached to discuss probation requirements</p> <p>Worked with HRD on Oneida's "Post Graduate Work Program"</p>



Job Training

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
<p>The Job Training Programs, the American Indian Vocational Rehabilitation (AIVR) and Workforce Innovation Opportunity Act (WIOA) are federally-funded pre-employment training activities that provide low-income, unemployed, under-employed and disabled Native Americans with services leading to achievement of a goal of entering, and successfully remaining in competitive, integrated workforce. This programming of the Job Training Programs is the only programming available that provides dedicated employment and training services to these populations.</p> <p>The Job Training Department collaborates with:</p> <ul style="list-style-type: none"> • Behavioral Health/Mental Health Therapy • Oneida Higher Education • Community Education Center • Center for Self-Sufficiency • Indian Child Welfare • Child Support • MA/Food Stamps • State VR • Cultural Healing 	<p>Base Number:</p> <ul style="list-style-type: none"> • 289 WIA and VR* • 949* includes all contacts including Job Center hits , job search and resume' development #s 	<p>Customers accessed Job Training services times in the 3rd quarter of FY17.</p> <p>AIVR = 461* WIOA = 119* Job Center = 294</p> <p>Most sought after services provided:</p> <ul style="list-style-type: none"> • Job search • Resume' development • Employment application assistance • Work clothing • Work tools • Guidance and counseling • Work experience • Skills training • Job shadowing • Mentoring • Education credentialing <p>*April-May only</p>	<p>During the quarter:</p> <ul style="list-style-type: none"> • 33% of disabled AIVR program users who exited the program successfully entered employment. • 50% of low-income, poorly- skilled WIOA eligible individuals who exited the program successfully entered employment. • VR has 6 high school juniors and seniors attending the attached job development training which includes: Workplace readiness, Skills to Pay the Bills, Financial Literacy, and Self Advocacy. Youth attending training sessions are also completing trail work experience sessions to explore related careers within the organization. • WIOA has 10 youth ages 14-19 in job exploration and trial work experience positions who will continue through August.

Youth Enrichment Services (Y.E.S.) Program

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
<p>The Y.E.S. Program Staff provide academic enrichment, social support services, mentoring and promote college and career readiness to Y.E.S. Eligible children in the schools listed below:</p> <p>Green Bay's King Elementary Advocate</p> <p>Green Bay's Lombardi Middle Advocate and Specialist</p> <p>Green Bay's Southwest High School Advocate and Specialist</p> <p>Seymour Rock Ledge Advocate, Enrichment Aid, Specialist</p> <p>Seymour Middle School Advocate and Specialist</p> <p>Seymour High School Advocate and Specialist</p> <p>West De Pere Middle School Specialist</p> <p>West De Pere High School Advocate</p> <p>Funding for the Y.E.S. Program comes primarily from Tribal Contribution, at 92%, with Self-Governance at 8%. The majority of program funds are spent on wage related expenses to provide direct services to students.</p>	<p>509 Y.E.S. Eligible Youth (414 Oneida Enrolled). This number does not include the 137 American Indian youth served who are descendants or the 111 youth with incomplete paperwork. The Y.E.S. Eligible youth are in grades:</p> <p>Grade K – 7 Grade 1 – 19 Grade 2 – 14 Grade 3 – 19 Grade 4 – 19 Grade 5 – 21 Grade 6 – 36 Grade 7 – 53 Grade 8 – 49 Grade 9 – 51 Grade 10 – 60 Grade 11 – 55 Grade 12 – 50</p> <p>Y.E.S. youth are tribally enrolled or are 1/4 American Indian from a federally recognized nation(s)/tribe(s) and whose parents have complete Y.E.S. paperwork.</p>	<p>Customers worked with the Y.E.S. Staff 22,687 times from April to May.</p> <p>Utilization includes:</p> <p>In school/after-school tutoring/academic reinforcement, development of organizational skills, mentoring and homework help.</p> <p>Boys'/Girls' Groups at Seymour's Rock Ledge, Middle and High Schools and Lombardi Middle School.</p> <p>After-School language classes at Lombardi, Rock Ledge, and West De Pere.</p> <p>In-school Oneida Language and Culture Classes at Seymour Middle School.</p> <p>Beading Groups for Seymour Middle and High youth and West De Pere High School.</p>	<p>43/47 YES program seniors at GB SW, Seymour, & WDP graduated.</p> <p>The Y.E.S. Program staff worked with concerns in the lives of the Y.E.S. students this year. Some of the concerns are increased drug/alcohol use among parents and some of the students, family dysfunction, domestic abuse, and homelessness, and mental illness, lack of mental health services, suicide, and insecurity about having enough food to eat. Staff concerns in working to meet the needs of the students include the need for more staff for the Y.E.S. Program and the social services programs that assist the Y.E.S. Program with groups, and the need for more mental health professionals.</p>

PARKS AND RECREATION AREA***Executive Summary***

The Parks and Recreation Area have been focused this quarter on preparing programs and staff for the busy summer programs throughout the Division. We worked closely with the Education and Training Area- Arts/ CEC department for the summer programs. While there were a few hurdles, this process is changing with each quarter of community programs, but we hope that you will see improvements with the registration process as we move along. This quarter we enrolled youth into the Recreation summer programs, Fitness Camps, Adventures, as well as Little League.

This quarter also saw an increase in personal gym rentals as we prepare our youth for the Indigenous Games that will occur in the fourth quarter. We have been busy training, coaching and working with coaches and athletes as they prepare for the games. In addition to the athlete preparation, we have worked closely with the coaches, athletes and the Host Society (Toronto) to collect the necessary forms needed for the games. This is one of the largest Oneida Athlete Contingencies that we are sending to the games. We were preparing over 120 athletes and over 20 coaches for the games. This has been a very exciting quarter as the youth fundraise, train and bond as a team for the Games.

The Parks have been very busy with graduation parties and family homecomings, we welcome the rentals and encourage you to call in advance for your request as the parks and gym rentals do book up quickly!

Experiential & Adventure

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
Oneida Experiential & Adventures uses hands on interactive activities to help individuals and groups develop themselves to help them be their best selves. .	Base number:700	Customers used Oneida Adventures services 2,561 times in the 3rd quarter of FY17	Provided classes for a Diabetic Grant, Elder Services, and the Fitness Center. Provided winter activity and sports training as well as activities for Reasonable Alternative Standard (RAS) Points for employees.
Oneida Experiential provided healthy options for the RAS point system, by helping employees to improve their health by making real behavior changes and discovering and overcoming road blocks that has prevented them from making these changes previously.	AGE GROUPS		
	18yo -70yo	314	Provided mindful walks, bikes, and excercises for employees for RAS points in conjunction with Diabetic walks and hikes. The RAS Participants increased stress reduction awareness by 84%
Health Center Diabetic Prevention Depression prevention Family Enrichment Programs Domestic Violence Support AODA	18yo -81yo	1723	Diabetic prevention participants reported increase of 65% understanding and awareness. Our Elders self- reported significant Increase in morale 62% With 80% reporting a desire to try new (more physical) programs with us.
Youth program: Behavior Intervention, Character Development, Environmental, After school, Survival, Outdoor skills, High School Adventure, Archery, Youth Healthy Relationships	7yo-18yo	524	Provide group sessions for Oneida students and local schools. Girls reported an increase in feeling connected and accepted Youth Increased Skill Sets By 46%



Oneida Family Fitness

NARRATIVE	DEMOGRAPHICS	FREQUENCY/UTILIZATION	BULLET POINTS
<p>Oneida Family Fitness provides health and wellness opportunities for all ages and abilities, to include physical activities and preventative health education to encourage total well-being. This quarter we continued to focus on maximizing fitness and wellness programs to increase engagement and participation.</p>	<p>Base Number: 4,344 members</p> <p>AGE GROUPS</p> <p>0-3: 4-12: 13-17: 18-35: 36-54: 55-64: 65+:</p>	<p>Customers used Oneida Family Fitness services 21,125 times in the 3rd quarter of FY17</p> <p>40 members; 106 visits 245 members; 1,320 visits 243 members; 1,513 visits 469 members; 3,852 visits 455 members; 5,515 visits 205 members; 2,756 visits 177 members; 3,617 visits</p>	<ul style="list-style-type: none"> ● Fitness Poker challenge/incentive (43 participants; Overall fitness improved based off check ins) ● Mother Spa Week & Fathers appreciation week; 150 members participated. ● Provided Swim Lessons; 52 participants ● Provided 456 fitness classes (4,379 attendees) ● Aquatic attendance (5,442 attendees) ● Provided 151 Martial Art classes (1,347 attendees)
<p>Collaborate with Oneida Programs to provide wellness opportunities.</p>			<ul style="list-style-type: none"> ● Provide programming for Diabetic clients (28 clients; met 132 times) ● Provide exercise class for elders at Elder Services 1x week (85 participants)
<p>Increase participant's KSA's of physical fitness and healthy lifestyles to reduce health care costs.</p>			<ul style="list-style-type: none"> ● Offered RAS programs 1. Bellin Run (154 participants) Employees also earned a RAS point for finishing the race



Recreation

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
The Oneida Recreation Department provides a quality after-school program for youth ages 7-18. During the after-school program, we try to accomplish the following outcomes:	Current Recreation Members = 637	Customers have used Recreation services 9,287 times during the Third Quarter.	April = 2576/ May = 3185/ June = 3526
1. Enhance the educational development of each participant - complete homework assignments and increase GPA.	AGE GROUPS		Learning Center G.P.A. School Age Civic 3.58 CW 3.36 Adolescent Civic 3.38 CW 2.64 Homework Completion Rate School Age Civic 57% CW 63% Adolescent Civic 4% CW 17%
2. Increase the physical activity of each participant - each member completes 60 minutes of activity daily.	0-5: 34	188	60 minutes of daily activity School Age Civic 35% CW 43% Adolescent Civic 24% CW 12%
3. Introduce the youth to various art mediums to encourage creative expression.	6-12: 367	2987	Exposed to new art mediums School Age Civic 66% CW 40% Adolescent Civic 19% CW 8%
4. Increase participant's awareness of the Six Pillars of Character Development.	13-18: 105	746	Participate in Character Club School Age Civic 43% CW 41% Adolescent Civic 13% CW 12%
	19-35: 19	15	
	36-64: 35	73	
Elder Bingo and Bowling	65 +: 77	425	
Youth team practices: (Baseball, Softball, Lacrosse) Dartball and Men's Basketball	Varies	3926	
Weekend rentals for the Cliff Webster Building	Varies	712	
Guests	Varies	215	



NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
<p>The Parks Department provides maintenance and landscaping (mowing/ tree branches, etc.) to 18 parks throughout the reservation and 2 multipurpose fields next to the Cliff Webster Recreation Facility. In addition to snow removal at the Parks, during the second quarter the staff removed leaves, prepped the fields for the winter, repaired parks equipment, built benches for the parks, and did maintenance on the lawnmowers and weed-eater equipment. In addition to regular maintenance of equipment, the 2 Staff assist in gathering items and preparing items for crafts with elders, building and repairing items for the parks for summer use.</p>	<p>Base number: 18 Parks and 2 multipurpose fields</p>	<p>Customers used the 18 parks and fields several times in the second quarter of FY17 due to the mild winter.</p>	<p>Prepare parks for rental usage for community members Prepare Lacrosse field for community use Repair parks and equipment that are destroyed or vandalized Continue to repair and replace park supplies that are old or in need of repair</p>

SOCIAL SERVICES AREA

Executive Summary: Our Oneida Nation Social Service (ONSS) programs continue to serve the Oneida Nation population meeting its diverse and challenging needs on and off the reservation. Our Oneida Social Service programs offer a variety of services which are listed below. Multiple funding sources originate from the Nation, BIA, State and Federal agencies. Programs supply basic support and emergency assistance to families who meet eligibility requirements, and have a need. The programs serve as an assistance unit and social service programs continue to be an important safety net for the membership.

Food Distribution

The Food Distribution program is for low-income American Indian and non-Indian households that reside on a reservation and households living in an approved area near a reservation with one person who is a member of a Federally-recognized tribe. We are 75% funded by the U.S. Department of Agriculture and 25% funded by our Oneida Nation.

We participated in a “Nutrition Education Project” grant for the Midwest & Northeast region, this grant was designed to promote healthier eating with fruits and vegetables smoothies. At the end of May we had our drawing and gave away five (5) Ninja Blenders for all who participated in the classes we offered.

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
Food Distribution provides a food package to help our participants maintain a nutritionally balanced diet. They select over 70 products, fresh and canned items. This is a low income grant.	Base numbers: Clients: 2,305 Families: 1,130	Customers used our services on an average of 376 families a month in our 3 rd quarter.	255 Food Deliveries to the Elders and Disabled.
	AGE GROUPS 0-3: 75 4-9: 69 10-17: 144 18-30: 123 31-55: 129 56-70: 36 70+: 21	Phone calls relating to our service: Outgoing:774 Received: 939 Total calls: 1713	

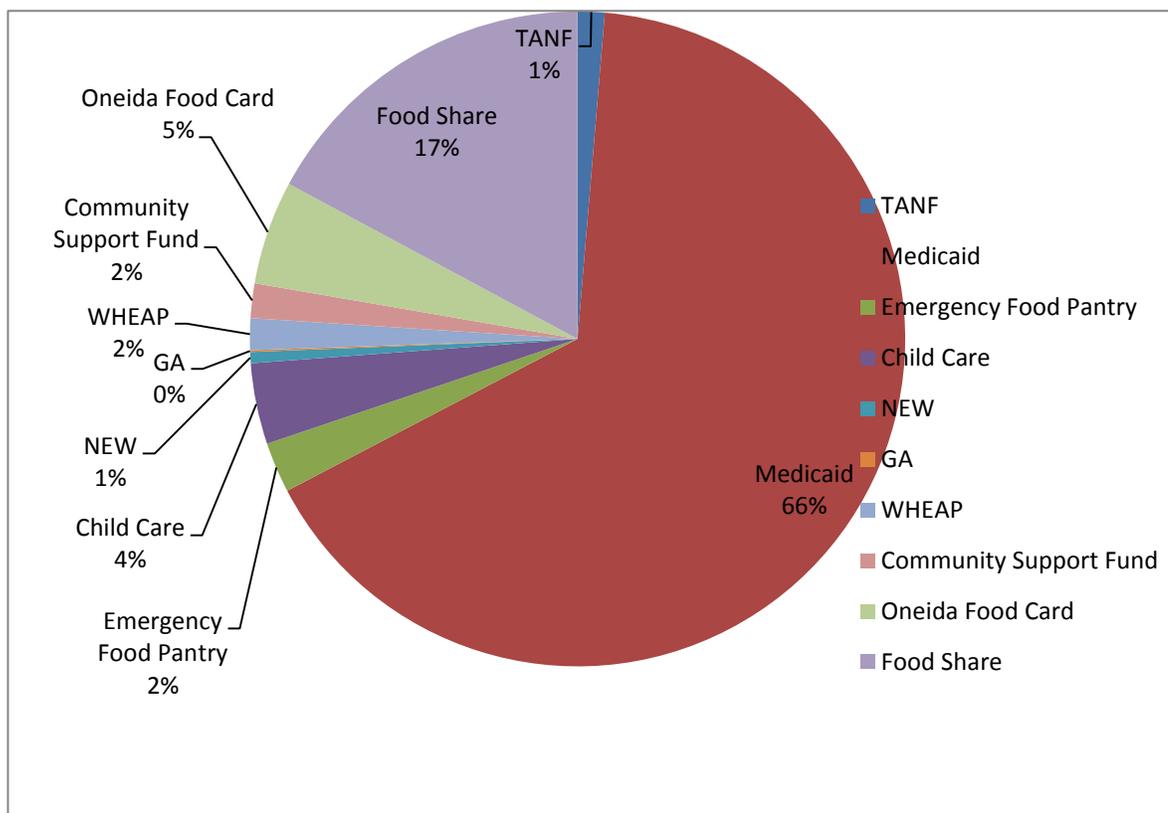


Economic Support Services

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
<p>Economic Support administers many public assistance programs within the department. One of those is the TANF (Temporary Assistance for Needy Families) program. The TANF program promotes work and personal responsibility to strengthen families. This is done by providing parents or caretakers with employment preparation and/or supportive services that promote self-sufficiency and responsibility.</p>	<p>TANF Case Averages: Cash Assistance: Avg. 16 Crisis: Avg. 4 TANF Diversion: Avg. 26</p>	<p>277 appointments held - 76 walk-ins - 2,803 phone calls in/out</p>	<p>57% of program assistance for TANF is done through the Diversion classification. Cash Payment makes up 35% and Crisis 8%. Diversion assistance helps families with dependent children with employment-related support services as an alternate to applying for cash assistance.</p>
<p>Food Share and Medicaid Assistance is another program provided to low-income families in need of food and health care coverage.</p>	<p>Medicaid: Avg. 2,271 Adults (18+): 820 Children (0-17): 1,458 Food Share: Avg. 591</p>		
<p>Child Care is also provided to low-income families through 2 different ways. WI Shares is the state child care assistance program, while CCDF (Child Care Development Fund) is a federal grant that is utilized to fund child care subsidies as well.</p>	<p>Child Care Case Averages: Wi Shares cases: Avg. 66 CCDF: Avg. 72 Children (0-12 yrs.)</p>	<p>On-site Child Care center utilized: Avg. 161 children/month</p>	<p>14 Social Services Clinics were held after hours that utilized the onsite center. Blood borne Pathogen training held at ARCC. Child Care Manager attended the WI Social Services Assoc. Annual Conference.</p>
<p>Native American Employment Works (NEW) is a program to assist those with work related expenses when starting new employment or retaining employment.</p>	<p>19 cases (+18 yrs.)</p>	<p>65 phone calls in/out</p>	<p>NEW support services consisted of auto insurance, repair and work clothing or tools for employment.</p>

General Assistance is a program designed to help with shelter costs while waiting for SSD Benefits.	3 cases currently	20 phone calls in/out	Cash payment given to those for housing related costs including rent, mortgage or utilities.
WHEAP (Wisconsin Home Energy Assistance Program) is administered to low-income individuals in need of heat and electric assistance	Avg. 54 cases each month	Avg. of 6 WHEAP appointments/mo. Avg. of 170 phone calls received for all three programs.	Mandatory State WHEAP training held in January.
Community Support Fund is a program supported by tribal contribution to assist enrolled Oneida tribal members when experiencing a catastrophic event, illness, or injury.	Avg. 40 cases each month	Food Card usage is increasing greatly.	Community Support Fund law was adopted on 1/11/17. Currently the rules are being created to uphold the law.
Oneida Food Card	Avg. of 177 families/mo.		Increasing greatly
Oneida Food Pantry was established to address an emergency food assistance need in the community.	86 families, Avg. of 29/mo.	86 customers determined eligible with all 86 picking up food at the pantry.	Emergency Food Pantry continues to grow with donations at Tower Foods.

Economic Support Cases



Family Support Services

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
<p>Child Support: The primary purpose is to strengthen parental responsibility for their children through establishment and enforcement of child support and bring families into being more self-sufficient. This is accomplished through the following five federal mandates: Paternity Establishment; Child Support Order Establishment, Modification, Enforcement; Locate Services. As well as community outreach & education. Funded through federal grant.</p>	<p>2884 (Oneida parents)</p>	<p>3702</p>	<p>*45 New Cases *Co-Parenting offered *Planning for upcoming community event in 4th quarter</p>
<p>Indian Child Welfare: Program area provides child protection services, parenting services and foster care services to Oneida children and families in accordance with the Indian Child Welfare Act and the Children and Family Services Department Mission. Program goal is to assist/support families in their effort and ability to provide a safe, nurturing and stable home environment for their children.</p>	<p>210(Oneida children and families involved in county/state Child Welfare systems, On-going and Intake for the quarter)</p>	<p>669</p>	<p>* 96 (children) On-Going Cases*114 Intake (new incoming reports for eligible children) Cases*Received IV-E reimbursement funding which is funding an additional Intake worker to meet the increasing case loads</p>
<p>Foster Care: License foster homes and kinship providers to offer placements for youth in out of home care (voluntary and involuntary) that follow the placement preferences set forth by the Tribe.</p>	<p>65 (Oneida youth in out-of-home care)</p>	<p>805</p>	<p>* 12 youth in foster care *56 Kinship *Two foster homes (child specific) in process of being licensed.</p>

<p>Parenting: Provide parenting education & support to families in the community who are either mandated to meet conditions or voluntarily participating.</p>	<p>30 (voluntary or mandated parents)</p>	<p>383</p>	<p>*15 participants in Parent Education Class (PEC) *30 parents participating in Trauma Informed Parenting (TIP) * 1 Teen parents</p>
<p>Prevention:Services provided to youth K-8th grade as well as families designed to support them in healthy and safe lifestyles.</p>	<p>114(K-12)</p>	<p>238</p>	<p>*AODA and Social Emotional groups offered to youth in schools. *Summer Youth, 4 days a week, 26 youth</p>
<p>Domestic Violence: Education on healthy relationships, crisis and on-going support to families who are experiencing or who have experienced domestic violence.</p>	<p>294 (All ages)</p>	<p>1012</p>	<p>*Women's Group *Men's Group *Girls Group *Boys Group *Individual and crisis support offered *DV staff supporting Summer Youth group with Prevention program staff</p>
<p>Yetiya?tanu'nha: Provides culturally based prevention and intervention program that works with at-risk teens to recover credits in order for the teens to graduate from high school, works on conflict and coping skills, assists with behavior modification, and gain entrance into post-secondary schooling or begin work.</p>	<p>12 (2 additional students pending) (8-12th grade)</p>	<p>648</p>	<p>*Students attend program 4 days a week throughout the summer months. *3 students graduated with OHS Senior class (full 23.5 credits earned) *Co-Co (Trauma Yoga) training offered to students *Grant re-applied for</p>

Elder Services

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
Elder Services Mission: To assist our elders to maintain an independent, healthy, productive & quality lifestyle through love, caring & respect by services we provide. Vision: We provide quality home & community based programs for elders & are a model for other aging entities.	Brown & Outagamie Counties within reservation boundaries. Priority is given to elders age 70+ and age 55 to 69 with proof of disability. Base number: 1106		Twa wah tsile (We are all family) Elder Services provides home & community-base services to assist elder to remain in their homes.
	AGE GROUPS		
Congregate Meals	Native American 55+ & Non-Native 60+	492 Clients & 3795 Services	Meals provides 1/3 of daily nutritional value
Home Delivered Meals	Native American 55+ & Non-Native 60+	228 Clients & 5139 Services	Same as previous
Supportive Services	Priority 70+ and disabled, Native American 55+ Non-Native 60+	71 Clients & 260 Services	In-home Chore & Personal Care * April only- staff moved to OHC
Native American Family Care Giver	Native American 55+	65 Clients & 332 Services	Support groups, Respite Care & Voucher program
Outreach Services	Priority 70+ and disabled, Native American 55+ Non-Native 60+	65 Clients & 261.50 Services	Assessments & Monitor ERS
Elder Abuse	Native American 55+	4 Clients & 13 Services	Case Management
Home Repair	Priority 70+ and disabled, Native American 55+ Non-Native 60+	87 Clients & 154 Services	Minor handy man repairs
Home-chore	Priority 70+ & 55 - 69 disabled, Native American	162Clients & 296 Services	Snow plowing & lawn services
Transportation	Native American 55+ & Non-Native 60 +	126 Clients & 2453 Services	Transport to meal site, bus passes for working elders

Information & Referral (I&R) & DRUMS	55+	1155 elders - DRUMS 8 elders for I&R and 12 referrals	DRUMS articles posted monthly in Kalihwisaks, Elder Services Facebook page and A-Z email communications; Information & Referral varies from dangerous trees needing to be cut to financial assistance to looking for work
Dementia Care Specialist strives to increase awareness of Dementia to the tribe by making Oneida Tribe Dementia Friendly. This is done by holding monthly memory cafés, memory screens, offering support for caregivers and family and offering education to the community.	elders/caregivers 55-70 over the age of 71	Elders/caregivers used DCS services in the 3rd quarter. Contact was made by phone and 1-1 meetings.	*Memory Café *Memory Screen *1-1 with caregiver presentations *employee health *Senior Companion/Foster Grandparent *Dr. Vir and providers *ONCOA *Library *Marketing of DCS program prior to GTC meeting on 3-19-17 *moved to Oneida health center

<p>The Aging & Disability Resource Specialist offers information and referrals on community and county resources to Oneida community members and functionally assesses members for Medicaid programs found through the Community Option Program Family Care, IRIS and Partnership programs through Brown and Outagamie Counties.</p>	<p>22-59: 12 calls 60-99: 176 calls</p>	<p>Long Term (LT) Function Screens: 5 Brief/Short Term Service Coordination: 1 Follow-up: 48 Information & Assistance (I&A): 127 Options Counseling: 2</p>	<p>Topic categories discussed during calls in last three months: abuse/neglect, adaptive equipment, Alzheimer's and other Dementia, auxiliary services, end of life, food, health, home services, housing, income maintenance, legal services, medial home care, mental health, nursing home, public benefits, financial-related needs, taxes, transportation, veteran services</p>
<p>SEOTS Mission is strengthening our cultural connection and providing services and programs to enhance the well-being of On^yote?a-ka living in southeastern Wisconsin. During the second quarter of FY2017, SEOTS continued to work on community engagement activities, in addition to regular programming.</p>	<p>Base number: Unduplicated: Total Oneida Population of Southeast Wisconsin: 0-3: 4-9: 10-17: 18-30: 31-54: 55-70: 70+:</p>	<p>*Total visits plus total incoming calls = client interactions *Social Media Counts: *Emails relating to services: NA *Phone calls relating to services: Incoming calls</p>	<p>*Total Facebook page likes increased by likes during the second quarter. *SEOTS Averaged incoming phone calls per day. *No longer reports to Elder Services-reports to George</p>

Apartments	Base number 29	Unduplicated Services 140 including rental payments, work orders	Routine maintenance and payment of rent
Major Home repair	Priority 70+ & 55 - 69 disabled, Native American	3 clients	repairs regarding health & safety *budget was passed late

Chairwoman Tina Danforth celebrated Betty Doxtator's retirement as a Foster Grandparent Volunteer for 26 years. This event was held at the Anna John Congregate Meal Site.



Head Start/Early Head Start

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
Head Start/Early Head Start mission: to provide educational and holistic services that promote healthy prenatal outcomes, enhance the development of young children, and foster the well-being of families while respecting cultural values.	Brown & Outagamie Counties. Priority is given to low-income children, families and pregnant women. Base number: 212	Service areas: 12 Contact Days-40 Children Served-196 Families Served-146	Head Start has 8 classrooms. School day is from 9:00AM to 1:00PM. Early Head Start is a home based program providing services in the home, through group socializations, community, or field trips.
	AGE GROUPS		
Education and Child Development Children's readiness for school and beyond is fostered through individualized learning experiences. Through relationships with adults, play and planned and spontaneous instruction, children grow in many aspects of development. Children progress in social skills and emotional well-being, along with language and literacy learning, and concept development.	Native & non-native children ages 0-5, parents, foster parents, guardians, and grandparents.	Children served-191 Services - 1,358	Meeting or exceeding expectations: Social-emotional - 91% Gross motor - 93% Fine motor - 99% Language - 95% Cognitive - 95% Literacy - 95% Math - 88%
Health & Disability - Each child's perceptual, motor, and physical development is supported to permit them to fully explore and function in their environment. All children receive health and development screenings, nutritious meals, oral health and mental health support. Head Start/Early Head Start connects families with medical, dental, and mental health services to ensure that children are receiving the services they need.	Native & non-native children ages: 0-5, pregnant women	222 Clients & 2,136 Services	Children on an IFSP/IEP - 52 (9-occupational therapy; 40-speech & language; 9-significant development delay; 1-hearing impaired. Referrals made-70, children with/health insurance-169, number of children with dental care - 165

<p>Family & Community Engagement Parents and families are supported in achieving their own goals, such as housing stability, continued education, and financial security. Head Start/Early Head Start support and strengthen parent-child relationships and engage families around children's learning and development.</p>	<p>Native & non-native children ages 0-5, parents, foster parents, guardians, grandparents, pregnant women</p>	<p>231 Clients & 748 Services</p>	<p>In-home Chore & Personal Care</p>
<p>Transportation - Head Start has 2 busses and 2 busses are contracted out through Lamer's Bus Lines.</p>	<p>Children ages 0-5, families, foster parents, guardians, grandparents, pregnant women.</p>	<p>52 Clients & 188 Services</p>	<p>Transport to and from school, field trips, socializations, medical appointments, job search.</p>
<p>Meals - Head Start's Nutrition Program provides healthy food and teaches children healthy eating habits at a young age to prepare them to make positive choices that lead to healthy lifestyles.</p>	<p>Children ages 3-5</p>	<p>Children 0-5 yrs.- 196 Meals served - 207</p>	<p>Breakfast, lunch, snacks, field trips, socializations, parent activities.</p>
<p>Home Visits - Home visitors work with parents to help provide learning opportunities that enhance children's growth and development. The home environment is used to help parents create rich learning opportunities that build on everyday routines and support children's development.</p>	<p>Children ages 0-3, families, foster parents, guardians, grandparents, pregnant women.</p>	<p>52 Clients & 352 Home Visits</p>	<p>In-home family support services. Weekly home visits. Bi-monthly group socialization experiences.</p>
<p>Prenatal Services - Early Head Start works closely with pregnant women to secure comprehensive prenatal and postpartum care. EHS works collaboratively with each pregnant woman to develop a plan to ensure that she receives risk assessments, medical and dental exams and mental interventions.</p>	<p>Native and non-native women & families.</p>	<p>8 clients, 18 families served, 266 Services</p>	<p>In-home support services, prenatal & postpartum care, transportation to medical appointments, mental health support, prenatal and nutrition education.</p>

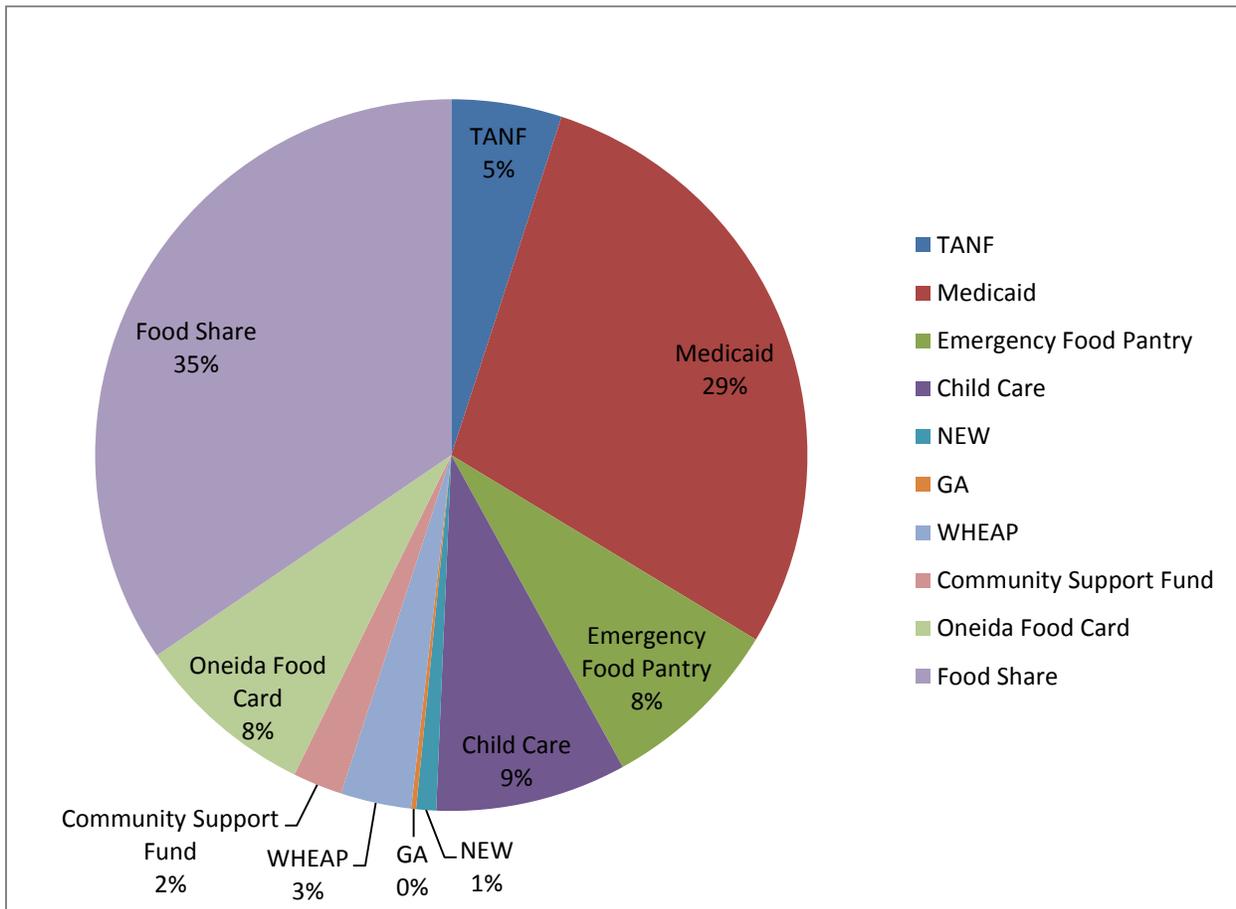
Head Start celebrated another successful graduation this quarter with some happy graduates and joyous singing that took place at the Radisson.

ECONOMIC SUPPORT SERVICES

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
Economic Support administers many public assistance programs within the department. One of those is the TANF (Temporary Assistance for Needy Families) program. The TANF program promotes work and personal responsibility to strengthen families. This is done by providing parents or caretakers with employment preparation and/or supportive services that promote self-sufficiency and responsibility.	TANF Case Averages: Cash Assistance: Avg. 18 Crisis: Avg. 4 TANF Diversion: Avg. 67	101 appointments held - 20 walk-ins - 862 phone calls in/out	75% of program assistance for TANF is done through the Diversion classification. Cash Payment makes up 20% and Crisis 5%. Diversion assistance helps families with dependent children with employment-related support services as an alternate to applying for cash assistance.
Food Share and Medicaid Assistance is another program provided to low-income families in need of food and health care coverage.	Medicaid: Avg. 2,421 Adults (18+): 1,143 Children (0-17): 1,278 FoodShare: Avg. 615		Staff completed Child Care Case Conversion from CSAW to EBT CSAW program.
Child Care is also provided to low-income families through 2 different ways. WI Shares is the state child care assistance program, while CCDF (Child Care Development Fund) is a federal grant that is utilized to fund child care subsidies as well.	Child Care Case Averages: Wi Shares cases: Avg. 77 CCDF: Avg. 77 Children (0-12 yrs.)	On site Child Care center utilized: Avg. 126 children/month	New EBT Child Care programming initiated February 1st. Families will now be required to use EBT cards to purchase their child care at their centers. 17 Social Services Clinics were held after hours that utilized the onsite center.
Native American Employment Works (NEW) is a program to assist those with work related expenses when starting new employment or retaining employment.	16 cases (+18 yrs.)	40 phone calls in/out	NEW support services consisted of auto insurance, repair and work clothing or tools for employment.
General Assistance is a program designed to help with shelter costs while waiting for SSD Benefits.	Avg. 4 cases currently	25 phone calls in/out	Cash payment given to those for housing related costs including rent, mortgage or utilities.

WHEAP (Wisconsin Home Energy Assistance Program) is administered to low-income individuals in need of heat and electric assistance	Avg. 57 cases each month	Avg. of 13 WHEAP appts./mo. Avg. of 190 phone calls received for all three programs. Food Card usage is consistent.	Mandatory State WHEAP training held in January.
Community Support Fund is a program supported by tribal contribution to assist enrolled Oneida tribal members when experiencing a catastrophic event, illness, or injury.	Avg. 40 cases each month		Community Support Fund law was adopted on 1/11/17. Currently the rules are being created to uphold the law.
Oneida Food Card	Avg. of 146 families/mo.		Consistent usage
Oneida Food Pantry was established to address an emergency food assistance need in the community.	Avg. of 74 families/mo.	156 customers determined eligible with 148 (Jan/Feb count only) picking up food at the pantry.	New Emergency Food Pantry opened January 11 at Tower Foods.

ECONOMIC SUPPORT CASES



NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
Elder Services Mission: To assist our elders to maintain an independent, healthy, productive & quality lifestyle through love, caring & respect by services we provide. Vision: We provide quality home & community based programs for elders & are a model for other aging entities.	Brown & Outagamie Counties within Reservation Boundaries. Priority is given to elders age 70+ and age 55 to 69 with proof of disability. Base number: 1106	customers used the Elder Services Department services several times in the second quarter of FY17, for detailed information see below	Twa wah tsile (We are all family) Elder Services provides home & community base services to assist elder to remain in their homes.
	AGE GROUPS		
Congregate Meals	Native American 55+ & Non-Native 60+	436 Clients & 3,480 Services	Meals provides 1/3 of daily nutritional value - Meals are provided 5 days a week.
Home Delivered Meals	Native American 55+ & Non-Native 60+	226 Clients & 5,036 Services	Meals provides 1/3 of daily nutritional value - Meals are provided 7 days a week.
Supportive Services	Priority 70+ and disabled, Native American 55+ Non-Native 60+	231 Clients & 748 Services	In-home Chore & Personal Care
Native American Family Care Giver	Native American 55+	52 Clients & 188 Services	Support groups, Respite Care & Voucher program
Outreach Services	Priority 70+ and disabled, Native American 55+ Non-Native 60+	63 Clients & 246 Services	Assessments & Monitor Emergency Response System (ERS)
Elder Abuse	Native American 55+	15 Clients & 39 Services	Case Management
Home Repair	Priority 70+ and disabled, Native American 55+ Non-Native 60+	84 Clients & 119 Services	Minor handy man repairs
Home-chore	Priority 70+ & 55 - 69 disabled, Native American	360 Clients & 195 Services	Snow plowing & lawn services

<p>Transportation</p>	<p>Native American 55+ & NonNat. 60 +</p>	<p>151 Clients & 1,690 Services</p>	<p>Transportation to meal-site & bus passes for working elders</p>
<p>Information & Referral (I&R) & DRUMS</p>	<p>55+</p>	<p>1155 elders - DRUMS 10 elders for I&R and 14 referrals</p>	<p>DRUMS articles posted monthly in Kalihwisaks, Elder Services Facebook page and A-Z email communications; Information & Referral varies from dangerous trees needing to be cut to financial assistance to looking for work</p>
<p>Dementia Care Specialist (DCS) strives to increase awareness of Dementia to the Nation by making Oneida Nation Dementia Friendly. This is done by holding monthly memory cafés, memory screens, offering support for caregivers and family and offering education to the community.</p>	<p>3 elders/caregivers 55-70 5 over the age of 71</p>	<p>8 elders/caregivers used DCS services in the 1st quarter. Contact was made by phone and 1-1 meetings.</p>	<ul style="list-style-type: none"> *Memory Café *Memory Screen *1-1 with caregiver *presentations *employee health *Senior Companion/Foster Grandparent *Dr. Vir and providers *ONCOA *Library *Marketing of DCS program prior to GTC meeting on 3-19-17
<p>The Aging & Disability Resource Specialist offers information and referrals on community and county resources to Oneida community members. The ADRS is also able to functionally assess members for Medicaid programs that are found through the Community Option Program Family Care, IRIS and Partnership programs through Brown and Outagamie Counties.</p>	<p>17.5 - 59 = 0 60-99 January 45 60-99 February 86</p>	<p>131 Customers inquiring about specific services; 3 emails relating to services; 131 phone calls relating to services</p>	<ul style="list-style-type: none"> ▪Memory Screens=0 ▪Developmental=13 ▪Elderly 60+=122 ▪Mental Health=19

<p>SEOTS Mission is strengthening our cultural connection and providing services and programs to enhance the well-being of On^yote?a-ka living in southeastern Wisconsin. During the second quarter of FY2017, SEOTS continued to work on community engagement activities, in addition to regular programming.</p>	<p>Base number:1,466 Unduplicated: 548 Total Oneida Population of Southeast Wisconsin: 2,134</p> <p>0-3: 10 4-9: 29 10-17: 29 18-30: 74 31-54: 254 55-70: 601 70+: 179</p>	<p>*Total visits (1,466) plus total incoming calls (2,890) = 4,356 client interactions</p> <p>*Social Media Counts: 1,289</p> <p>*Emails relating to services: NA</p> <p>*Phone calls relating to services: 2,890 Incoming calls</p>	<p>*Annual Holiday party (155 attendees) and the family bowling outing (59 attendees). Total participation increased by 6% over the same period in FY2016.</p> <p>*Total Facebook page likes increased by 149 likes during the second quarter.</p> <p>*SEOTS Averaged 45 incoming phone calls per day.</p>
<p>Apartments</p>	<p>Base number 29</p>	<p>Unduplicated Services 140 including rental payments, work orders</p>	<p>Routine maintenance and payment of rent</p>
<p>Major Home repair</p>	<p>0 clients</p>	<p>budget constraints</p>	<p>repairs re: health</p>

FAMILY SUPPORT SERVICES***Executive Summary***

Child Support: Program had 62 new cases for the quarter. In addition to establishing paternity and managing the current case load the program offered a Co-Parenting workshop for families. This is an initiative that began last fiscal year in collaboration with the Parenting program and now has expanded to include the family court judges. The program began utilizing a texting service to send customers appointment reminders or to put out notice of any upcoming program events. So far this seems to be well received by the customers and has been a helpful tool in ensuring for appointment times. In March two staff went out to Sanger B. Powers Correctional to present on Child Support and answer any questions inmates had which was also successful.

Indian Child Welfare (ICW): Program continues to see an increase in cases related to community drug trends. The department was able to hire an additional Intake worker to assist in managing the incoming reports and investigations. This was possible through our new Title IV-E funding, which is a federal funding source which provides partial reimbursement for Child Welfare services that are done by the agency. Program has been in process or working in collaboration with the LRO on the new Children's Code.

Foster Care: Program continues to recruit to license new foster homes and kinship care providers. One new home licensed this quarter. Hygiene drive initiative was promoted this quarter and the program was received enough donations to create hygiene bags to offer to youth in out of home care.

Parenting: Program offered Parenting Education Class (PEC) that began in January and ended March 29th with 10 parents who completed the program. Trauma Informed Parenting (TIP) was also offered with 12 parents completing.

Prevention: Services this quarter have been tremendously limited as the program had one staff who had retired and the other who was on leave. Staff from other programs had assisted with providing some services to the youth, but there were still some significant service gaps. The grantor was updated as there were concerns that we may not meet our grant goals and objectives. Program was informed to document to prevent loss of future funding.

Domestic Violence: Program has received a total of three new grants this FY one of which was finalized and approved this quarter, the Office on Violence against Women (OVW) which will offer legal resources to women experiencing domestic violence as well as some housing security (limited). The three new grants will fund an additional two Full-Time positions and one Part-Time position, two of which have been filled. Program offers individual, crisis and group support and education to youth, adults and families.

Yetiya'tanu'nha: Program served an average of 11 students for the 2nd Quarter. Programming on prevention and credit recovery services are offered Monday through Thursday. The program is partnered with many of the community partners such as; Social Services, Oneida Family Fitness, Oneida Adventures, College of Menominee Nation, Oneida Nation High School, Human Resources Department, Oneida Police Department etc. to offer students a diverse range of services to meet their needs and to support their growth in the program. The program had a site visit by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) who currently funds the program. This is the final year of the current grant. The program has submitted a new grant application to the OJJDP in hopes to continue offering the program to youth in the community.

<p>Foster Care:License foster homes and kinship providers to offer placements for youth in out of home care (voluntary and involuntary) that follow the placement preferences set forth by the Tribe.</p>	65(Oneida youth in out-of-home care)	926	* 12 youth in foster care*56 Kinship *One new foster home licensed.
<p>Parenting: Provide parenting education & support to families in the community who are either mandated to meet conditions or voluntarily participating.</p>	30 (voluntary or mandated parents)	320	*10 parents completed the Parent Education Class (PEC) * 12 parents completed the Trauma Informed Parenting (TIP) * 2 Teen parents
<p>Prevention: Services provided to youth K-8th grade as well as families designed to support them in healthy and safe lifestyles.</p>	11 (K-12)	59	*Tutoring services offered at the elementary schools.
<p>Domestic Violence: Education on healthy relationships, crisis and on-going support to families who are experiencing or who have experienced domestic violence.</p>	238 (All ages)	423	*Women's Group *Men's Group *Girls Group *Boys Group *Individual and crisis support offered
<p>Yetiya?tanu'nha: Provides culturally based prevention and intervention program that works with at-risk teens to recover credits in order for the teens to graduate from high school, works on conflict and coping skills, assists with behavior modification, and gain entrance into post-secondary schooling or begin work.</p>	11 (8-12th grade)	528	*Students attend program 4 days a week. *Grant re-applied for

HEAD START

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
Head Start provides a classroom experience that prepares children for school. In addition, the program works with families to engage them in their child's education. Head Start looks at the whole child	Base number: 282	Families and Children utilized the program 435 times	Number of children meeting/exceeding benchmarks during this quarter was as follows: *Social/Emotional *Cognitive *Large Motor *Fine Motor *Language *Cognitive *Literacy *Math
	AGE GROUPS	Referrals : 175	*Attendance for the children in the Quarter averaged 90.82%
	3 to 5 year olds	Family Events: 221 Family Goals: 24 Family Needs Assessment: 15	143 Parent-Teacher Conferences

Early Head Start

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
Early Head Start is a home visiting program where the Home Visitor meets with the parent and child weekly to work on school readiness. They also engage the parent in their infant/toddlers education	Base number:	Families and Children utilized the program 312 times	Number of children meeting/exceeding benchmarks during this quarter was as follows: *Social/Emotional 84% *Cognitive 88% *Large Motor 86% *Fine Motor 91% *Language 80% *Literacy 84% *Math 79%
	AGE GROUPS		
	0-3:	Referrals: 95	
		Socialization: 71	
		Family Goals: 120	
		Family Needs Assessment: 26	

Southeastern Oneida Tribal Services (SEOTS)

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
<p>SEOTS Mission is strengthening our cultural connection and providing services and programs to enhance the well-being of On^yote?a-ka living in southeastern Wisconsin. During the third quarter of FY2017, SEOTS continued to work on community engagement activities, in addition to regular programming.</p>	<p>Base number: 1,428 Unduplicated: 614 Service Area Population: 2,118</p>	<p>Total Visits -1,428 Incoming Calls - 2,792 Client Interactions - 4,220 Total Client Interactions to date - 13,023</p>	<p>*Indian Taco Fundraiser 4/28, 87 attendees * 2nd Annual Oneida Arts, Evolving Traditions Art Show 5/13, 74 attendees * SEOTS Picnic 6/25, 70 attendees</p>
<p>AGE GROUPS</p>	0-3: 2	<p>Social Media Counts on Facebook: 1376 page likes</p>	<p>Most Utilized Services: Medication Distribution (466), Elder Activities (323), Office Equipment Use (83)</p>
	4-9: 28		
	10-14: 32		
	15-17: 37		
	18-20: 7		
	21-30: 36		
	31-40: 45		
	41-54: 150		
	55-61: 122		
	62-74: 277		
	75-89: 169		
	90+: 1		

ONEIDA PUBLIC TRANSIT

NARRATIVE	DEMOGRAPHICS	FREQUENCY/ UTILIZATION	BULLET POINTS
<p>Oneida Public Transit provides secure-reliable transportation at a reasonable cost to our passengers of the Oneida community and surrounding communities and is paid for with grants from Wisconsin Department of Transportation (WisDOT), Federal Transportation Administration (FTA), and Tribal Contribution.</p> <p>Oneida Public Transit implemented the Ecolane Automatic Dispatch Software System.</p>	Base number: 926	13,015	<p>Overall 9% increase compared to Qtr1 FY2017.</p> <p>Transit's existing Access Database was run in tandem with Ecolane March 6, 2017 – March 10, 2017. Trip data was entered into both systems simultaneously to ensure on-going Transit operations throughout the transition period.</p> <p>To Date: Positive feedback from customers as the On-Time Performance is improving to over 90%. Target Goal: 95%</p>
	AGE GROUPS		
	0- 6: 504		38% increase compared to Qtr1 FY2017
	7-18: 4,016		14% increase compared to Qtr1 FY2017
	19-54: 4,115		15% increase compared to Qtr1 FY2017
	55 +: 3,796		4% decrease compared to Qtr1 FY2017
	Wheelchair: 584		9% increase compared to QTR1 FY2017
	Total Miles: 92,165		13% increase compared to QTR1 FY2017

General Tribal Council agenda items are for enrolled tribal Oneida Members only and therefore omitted from the public meeting packet.

Oneida Business Committee Agenda Request

ADD-ON

1. Meeting Date Requested: 07 / 26 / 17

2. General Information:

Session: [X] Open [] Executive - See instructions for the applicable laws, then choose one:

[Empty text box]

Agenda Header: Announcement/Recognition

[] Accept as Information only

[X] Action - please describe:

Special Recognition

3. Supporting Materials

[] Report [] Resolution [] Contract

[] Other:

1. [Empty text box]

3. [Empty text box]

2. [Empty text box]

4. [Empty text box]

[] Business Committee signature required

4. Budget Information

[] Budgeted - Tribal Contribution [] Budgeted - Grant Funded [] Unbudgeted

5. Submission

Authorized Sponsor / Liaison: Larry Barton, Chief Financial Officer

Primary Requestor/Submitter: Your Name, Title / Dept. or Tribal Member

Additional Requestor: Name, Title / Dept.

Additional Requestor: Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

Special Recognition

- 1) Save a copy of this form for your records.
- 2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

July 5, 2017

19U MALE BASKETBALL

CRIMSON POWLESS	COACHES:
ELIJAH METOXEN	JAMISON KING
JONATHAN MASSEY	ANTHONY CORNELIUS
ANTHONY HERNANDEZ	

16U MALE BASKETBALL

TY MELCHERT	COACHES:
ISAIAH FUNMAKER	TERRY MELCHERT
RICHARD SUMMERS III	

14U MALE BASKETBALL

DAVID DANFORTH	COACHES:
	DUGAN WEBSTER

19U FEMALE BASKETBALL

LEXANDRIA METOXEN ***	COACHES:
	MARGARET ELLIS
	LOIS STEVENS

16U FEMALE BASKETBALL

M'KENZY ACKLEY
LIEDA RODRIGUEZ
SADIE SCHUMAN
MALIA JACOBS

14U FEMALE BASKETBALL

IMANI NINHAM	RILEE POWLESS
NAOMI HOUSE	SHANIA BARBER
MIRANDA SKENADORE	TALIAH DEGROOT
YANET TORRES-MEJIA	

July 5, 2017

19U FEMALE SOFTBALL

MERCEDES ACKLEY	COACHES:
SKYLEE ELM	NONA DANFORTH
KIANDRA GERALD ***	
JAELYNN DANFORTH	

16U FEMALE SOFTBALL

SKYE DEGROOT	COACHES:
AALIYAH HOUSE-WEBSTER	NONA DANFORTH

GOLF MALE/FEMALE

PRESLEY CORNELIUS	19U FEMALE	COACHES:
LEVI WILLIAMS	19U MALE	KOKOMOSS WHITE
BRYLEE KING	17U FEMALE	MICHAEL NINHAM
JAMOZZY SKENADORE	17U MALE	
TRENT THOMAS	17U MALE	

2

WRESTLING 15-18 YEAR OLD

BRANDON KING

SWIMMING MALE/FEMALE

DANIKA ZABLOCKI	14U FEMALE	COACHES:
BRIANA ZABLOCKI	16U FEMALE	KRISTIN ZABLOCKI
JACKIE ZABLOCKI	19U MALE	

July 5, 2017

19U FEMALE SOCCER

BREE BZDAWKA	COACHES:
ANASTACIA REYES-ELM	LEAH SROOBANTS
ALTAEZZA DOUANGMALA	Vicente Vega
SOPHIE SKENANDORE	
SAVANNA FISH	
LINDSEY DANFORTH	
SANDRA TORRES-MEJIA ***	
KRISTEN VANDYKE	
SADIE KELLY	

19U MALE BOX LACROSSE

CAMERON SKENADORE	COACHES:
NATHAN NINHAM	BRAD VANEVERY
KELLY STEVENS	DANA ISAAC
BLAKE DOXTATOR	SID WHITE
WILLARD JOHNSON JR.	KILABREW VANDYKE
DESMOND DEGROOT	
JEREMIAH WEBSTER	
GAVIN WHITE	
NATHANIEL PADRON	
SETH CHARLES	
PATRICK BAILLIE	
DARWIN ISAAC	
KYLE BETTERS	
BRANDON GRANQUIST	
MELVIN MATSON	

July 5, 2017

19U MALE VOLLEYBALL

MIGUEL HERNANDEZ ***
DAMON DENNY***

19U FEMALE VOLLEYBALL

PAIGE SKENANDORE
TIANNA HACKETT
LAIYAH LEE
JASHON KILLSPOTTED
RILEY RASMUSSEN

16U FEMALE VOLLEYBALL

LILLIAN COOPER
CHASELYN PARKER
TIARA BARBER

ARCHERY MALE/FEMALE

16U RECURVE

CALEB AGUIRRE	COACHES:
	SHAD WEBSTER
	TANYA SKENADORE

16U COMPOUND

JACKSON SCHUYLER

19U RECURVE

JOSHUA SKENANDORE

19U COMPOUND

DANNY HERREREA
KIARA SKENADORE

July 5, 2017

19U MALE ATHLETICS

DYLAN DANFORTH	COACHES:
JOSE GUZMAN	JUSTINE R. MEHOJAH HEAD COACH
	JENNA CORNELIUS-DAUBON ***

19U FEMALE ATHLETICS

CAMILLE BILLIE
MIA CHARNON
JASHELLE KING-SKENANDORE

16U MALE ATHLETICS

NAKAI WEBSTER

16U FEMALE ATHLETICS

SADIE DANFORTH
KAILEY HILL

14U MALE ATHLETICS

CAYDENCE CORNELIUS
WAYNE WILLIAMS

14U FEMALE ATHLETICS

MARGO FRANCOUR

Team Wisconsin Medal Count

2017



Oneida Nation only medals.
Congratulations Team Wisconsin!

HANDOUT FOR ITEM - II.A.

Team Wisconsin Medalists

Sport	Event	Athlete/Team	Medal
3D Archery	19U Male Compound	Daniel HERRERA	 Bronze
Athletics (Track & Field)	19U Female 4x100m Relay	Wisconsin	 Bronze
Athletics (Track & Field)	19U Female Triple Jump	Jashelle KING-SKENADORE	 Silver
Athletics (Track & Field)	19U Male 200m	Jose GUZMAN	 Gold
Athletics (Track & Field)	19U Male 400m	Jose GUZMAN	 Gold
Athletics (Track & Field)	19U Male 4x100m Relay	Wisconsin	 Bronze
Athletics (Track & Field)	19U Male Long Jump	Jose GUZMAN	 Bronze
Basketball	14U Female Basketball	Wisconsin	 Gold
Basketball	14U Male Basketball	Wisconsin	 Bronze
Basketball	16U Female Basketball	Wisconsin	

HANDOUT FOR ITEM - II.A.

Sport	Event	Athlete/Team	Medal
			Bronze
Basketball	16U Male Basketball	Wisconsin	 Silver
Basketball	19U Female Basketball	Wisconsin	 Bronze
Golf	17U Male Golf	Jamozzy SKENANDORE	 Silver
Golf	17U Male Golf	Trent THOMAS	 Bronze
Golf	19U Female Golf	Presley CORNELIUS	 Bronze
Softball	19U Female Softball	Wisconsin	 Bronze
Swimming	16U Female 4x100m Freestyle Relay	Wisconsin	 Silver
Swimming	16U Female 4x50m Freestyle Relay	Wisconsin	 Bronze
Swimming	16U Female 4x50m Medley Relay	Wisconsin	 Bronze

HANDOUT FOR ITEM - II.A.

Sport	Event	Athlete/Team	Medal
Swimming	19U Female 100m Breaststroke	Briana ZABLOCKI	 Silver
Swimming	19U Female 100m Butterfly	Briana ZABLOCKI	 Silver
Swimming	19U Female 200m Butterfly	Briana ZABLOCKI	 Gold
Swimming	19U Female 200m Freestyle	Briana ZABLOCKI	 Bronze
Swimming	19U Female 200m Individual Medley	Briana ZABLOCKI	 Gold
Swimming	19U Female 4x100m Freestyle Relay	Wisconsin	 Silver
Swimming	19U Female 4x50m Freestyle Relay	Wisconsin	 Bronze
Swimming	19U Female 4x50m Medley Relay	Wisconsin	 Silver
Swimming	19U Male 100m Breaststroke	Jackie ZABLOCKI	 Bronze
Swimming	19U Male 100m Butterfly	Jackie ZABLOCKI	 Gold

HANDOUT FOR ITEM - II.A.

Sport	Event	Athlete/Team	Medal
Swimming	19U Male 100m Freestyle	Jackie ZABLOCKI	 Silver
Swimming	19U Male 200m Individual Medley	Jackie ZABLOCKI	 Silver
Swimming	19U Male 50m Butterfly	Jackie ZABLOCKI	 Gold
Wrestling	Male Wrestling 100 KG / 220.5 lbs	King, Brandon	 Silver

HANDOUT FOR ITEM - II.A.

Delegation				T
 British Columbia	67	58	54	179
 Saskatchewan	65	54	47	166
 Ontario	51	42	44	137
 Eastern Door & the North	22	36	19	77
 Alberta	34	26	16	76
 Wisconsin	16	18	23	57
 Manitoba	17	21	16	54
 Newfoundland and Labrador	3	6	25	34
 Northwest Territories	5	13	10	28
 Washington	10	6	9	25
 Yukon	5	8	10	23
 Nova Scotia	5	7	4	16
 New Brunswick	3	8	5	16
 New York	3	3	7	13
 Maine	0	3	6	9
 Florida	4	0	1	5
 Minnesota	1	1	2	4
 Nunavut	0	1	3	4
 Colorado	0	1	3	4

HANDOUT FOR ITEM - II.A.

Delegation				T
 Prince Edward Island	0	0	3	3
 California	1	1	0	2
 Connecticut	0	0	0	0

[Login](#)

Track Athlete Event List

AGE CATEGORY	U19	U19
GENDER	MALE	FEMALE
100 Meter Dash	1. Tobias Brown 2. 3.	1. Sienna Stevens 2. Camille Billie 3. Mia Charnon
200 Meter Dash	1. Jose Guzman 2. Tobias Brown 3.	1. Sha'nae Wynos 2. Camille Billie 3. Jamyn Thundercloud
400 Meter Dash	1. Jose Guzman 2. 3.	1. Jashelle King-Skenandore 2. Sha'nae Wynos 3. Mia Charnon
800 Meter Dash	1. Eli Smith 2. 3.	1. 2. 3.
1500 Meter Run	1. Eli Smith 2. 3.	1. 2. 3.
3000 Meter Run	1. Eli Smith 2. 3.	1. 2. 3.
High Jump	1. 2. 3.	1. 2. 3.
Long Jump	1. Tobias Brown 2. Jose Guzman 3.	1. Jashelle King-Skenandore 2. Sienna Stevens 3. Camille Billie
Triple Jump	1. 2. 3.	1. Jashelle King-Skenandore 2. Camille Billie 3.
Shot Put	1. Amando Bautista 2. Dylan Danforth 3. Mashaenehsaeh Waukau	1. TreVonna Rave 2. Bishbeneskikwe Daniels 3.
Discuss	1. Amando Bautista 2. Ryan Alloway 3. Kody Funmaker	1. TreVonna Rave 2. Bishbeneskikwe Daniels 3.

HANDOUT FOR ITEM - II.A.

Javelin	1. Ryan Alloway 2. 3.	1. 2. 3.
4x100 Meter Run	1. Tobias Brown 2. 3. 4. Jose Guzman	1. TreVonna Rave 2. Mia Charnon 3. Camille Billie 4. Jashelle King-Skenandore
4x400 Meter Run	1. Tobias Brown 2. 3. 4. Jose Guzman	1. Mia Charnon 2. Sienna Stevens 3. Jamyn Thundercloud 4. Jashelle King-Skenandore
X-COUNTRY	1. 2.	1. 2.

Track Athlete Event List

AGE CATEGORY	U16	U16
GENDER	MALE	FEMALE
100 Meter Dash	1. Ramsey Price 2. 3.	1. Kaitlyn Mcgeshick 2. Sadie Danforth 3. Minnie Lonetree
200 Meter Dash	1. Ramsey Price 2. 3.	1. Kaitlyn Mcgeshick 2. Sadie Danforth 3. Senihseah Wayka
300 Meter Dash	1. Shawn Jr. Pomonicutt 2. 3.	1. Kaitlyn Mcgeshick 2. 3.
800 Meter Dash	1. Nakai Webster 2. 3.	1. Minnie Lonetree 2. 3.
1200 Meter Run	1. Nakai Webster 2. 3.	1. Minnie Lonetree 2. 3.
2000 Meter Run	1. 2. 3.	1. 2. 3.
High Jump	1. 2. 3.	1. 2. 3.
Long Jump	1. Ramsey Price 2. Shawn Jr. Pomonicutt 3.	1. Sadie Danforth 2. Senihseah Wayka 3.
Triple Jump	1. 2. 3.	1. Senihseah Wayka 2. 3.
Shot Put	1. Hunter Connahvichnah 2. 3.	1. Memphis Cleveland 2. Kailey Hill 3.
Discuss	1. Hunter Connahvichnah 2. 3.	1. Memphis Cleveland 2. Kailey Hill 3.

HANDOUT FOR ITEM - II.A.

Javelin	1. 2. 3.	1. 2. 3.
4x100 Meter Run	1. Ramsey Price 2. Hunter Connahvichnah 3. Nakai Webster 4. Shawn Jr. Pomonicutt	1. Minnie Lonetree 2. Memphis Cleveland 3. Senihseah Wayka 4. Kaitlyn Mcgeshick
4x400 Meter Run	1. 2. 3. 4.	1. 2. 3. 4.
3K-X-COUNTRY	1. 2.	1. 2.

Track Athlete Event List

AGE CATEGORY	U14	U14
GENDER	MALE	FEMALE
80 Meter Dash	1. Peter Husby 2. Makyah Funmaker 3.	1. Layla Wescott 2. Kailey Neosh 3. Mckenzie Gruner
150 Meter Dash	1. Caydence Cornelius 2. Makyah Funmaker 3.	1. Layla Wescott 2. Kailey Neosh 3.
800 Meter Dash	1. Caydence Cornelius 2. Jaiden Deschinny 3.	1. Margo Francour 2. Isabella Escamilla 3.
1200 Meter Dash	1. Dugan Webster Jr. 2. Jaiden Deschinny 3.	1. Margo Francour 2. Mckenzie Gruner 3.
High Jump	1. 2. 3.	1. 2. 3.
Long Jump	1. Peter Husby 2. 3.	1. Isabella Escamilla 2. 3.
Shot Put	1. Wayne Williams 2. 3.	1. Guadalupe Cruz 2. 3.
Discuss	1. Wayne Williams 2. 3.	1. Guadalupe Cruz 2. 3.
Javelin	1. 2. 3.	1. 2. 3.
4x100 Meter Run	1. 2. 3. 4.	1. Kailey Neosh 2. McKenzie Gruner 3. Margo Francour 4. Layla Wescott

HANDOUT FOR ITEM - II.A.

4x400 Meter Run	1. Peter Husby 2. Caydence Cornelius 3. Jaiden Deschinny 4. Dugan Webster Jr.	1. Layla Wescott 2. Mckenzie Gruner 3. Isabella Escamilla 4. Margo Francour
2K-X-COUNTRY	1. Jaiden Deschinny 2.	1. Margo Francour 2.



Memorandum

To: Oneida Business Committee

From: Stephen Webster, Records Management Area Manager

Date: July 20, 2017

Re: Special Business Committee meeting - Oaths of Office for Elected Officials

This memo provides information regarding requirements for the swearing in of newly elected officials and provides dates and times for the OBC to schedule a special meeting to administer these oaths of office.

Election Law Requirements

Relative to the request below, §101.11-12 of the Election Law states:

"The Election Board shall forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer."

Also, § 102.11-13 of the Election Law states:

"The Business Committee shall declare the official results of the election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report.."

Lastly, § 102.11-15. of the Election Law states:

"Except in the event of an emergency, as determined by the Business Committee, newly elected officials shall be sworn into office no later than thirty (30) calendar days after the official results of an election are declared by the Business Committee."

Current Schedule

When the 2017 General Election dates were approved by the General Tribal Council, the Oneida Election Board identified the date the Final Report would be presented to the OBC. Based on that information, the following schedule applies:

Date	
August 9, 2017	Accept Final Report and Declare the Official Results
August 10, 2017	Inauguration of Newly Elected OBC
August 15, 2017	Deadline to send notices regarding the swearing in of newly elected officials
September 8, 2017	Deadline ¹ for newly elected officials to be sworn into office

As a member of the Transition Team, I have reviewed the OBC Orientation and Transition Schedule and identified the following dates/time for the OBC to hold a special meeting for the purpose of administering the oaths of office for the remaining elected officials which will to comply with the other requirements of the Election Law:

DATE	TIME
August 17, 2017	5:00 p.m.
August 18, 2017	1:30 p.m.

Requested Action

1. Schedule a special OBC meeting for the purpose of administering the oaths of office for the remaining elected officials.

¹ Election Law §102.11-15.(a) state in part: "If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall be considered vacant and the Election Board shall declare the next highest vote recipient the winner."

Business Committee Meeting

8:30 a.m. Wednesday, July 26, 2017 (RECONVENED ON 7/27/17)

Thank you for printing clearly

Gerabue Danforth

Krisdy Krentke

Bud G. Johnson

Carol Smith

Heather Kues

Dan Miller

Reinold Nylam Lamberies

Judy Cornelius

Joanie Buckley

Bonnie Quinn

C. J. Metaxas

Gene Schmidt

Rae Skendore

Paul Eichen

Debbie Dayton

TROY D. FARR

KAREN FARR

Cathy Bachhuber